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KANSAS

ROAD AND BRIDGE LAWS

AUTOMOBILE LAW; BRIDGE CONSTRUCTION, REPAIR, RECONSTRUCTION
AND RELOCATION; LAYING OUT, MAINTAINING AND IMPROVING
PUBLIC HIGHWAYS; DUTIES OF COUNTY COMMISSIONERS,
HIGHWAY ENGINEERS AND BOARDS OF HIGHWAY
COMMISSIONERS IN TOWNSHIPS;
MARKING HIGHWAYS.

COMPILED BY
J. T. BOTKIN,
SECRETARY OF STATE.

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KANSAS STATE PRINTING PLANT.
W. R. SMITH, State Printer.
TOPEKA. 1915.

6-867

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1915a

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KANSAS ROAD AND BRIDGE LAWS.

AUTOMOBILES.

1. **Terms defined.** The words and phrases used in this act shall, for the purpose of this act, be construed as follows: "Motor vehicles" shall include all vehicles propelled by any power other than muscular power, excepting, however, traction engines, road rollers and any vehicle which runs only on rails or tracks. "Highways" shall include public streets, roads, turnpikes, parks, parkways, drives, alleys and other public ways used for the passage of road vehicles. (L. 1913, ch. 65, sec. 1.)

2. **Registration; fees.** Every person or persons, firm or corporation owning, or who may hereafter own, a motor vehicle shall file in the office of the secretary of state, on a suitable blank furnished by said secretary of state, a description of every such vehicle, except as otherwise provided in this act, and shall at the same time and annually thereafter, so long as such motor vehicle is owned by such person or persons, firm or corporation, pay a registration fee of two dollars per year for each motorcycle and five dollars per year for each motor vehicle other than motorcycle, and where the license shall be issued for less time than six months the license fee shall be two dollars and fifty cents. The registration year shall begin July 1, 1913, and all licenses issued under the provisions of this law shall be dated the day and year of their issue and shall expire on the 30th day of June next thereafter; provided, that no registration fee shall be charged for any motor vehicle owned by any city in this state for the use of the police or fire departments. The secretary of state shall file the statements herein provided for in his office and register each such motor vehicle in a book to be kept for that purpose and shall assign and transmit to each a number plate and license certificate, numbering them consecutively. Every owner of a motor vehicle registered as herein provided shall be considered and treated as the owner thereof until there shall be filed in the office of the secretary of state an original bill of sale or certified copy of the same showing a change of ownership and accompanied by an application on a blank furnished by said secretary of state requesting registration of such change of ownership, also accompanied by a fee of one dollar for registering such change of ownership. No change of ownership of any motor vehicle shall be registered unless the annual registration fees for such vehicle are fully paid. (Id., sec. 2.)

3. Fees paid to county treasurer. All registration fees provided for in this act shall be paid to the treasurer of the county in which the applicant for registration resides, and said treasurer shall credit \$4.25 of said fees collected on motor vehicles and \$1.50 of said fees collected on motor cycle licenses to the county road fund for the maintenance of roads only and he shall immediately transmit the remaining sum of 75¢ for each motor vehicle license fee and 50¢ for each motor cycle license fee to the state treasurer to be placed in a special fund, which fund is hereby appropriated, for the use of the secretary of state in supplying number plates and license certificates and employing all necessary help and paying all expenses incident to the administration of this law, upon vouchers approved by the state auditor; provided that any balance remaining in the fund at the end of the fiscal year shall be turned into the general revenue fund of the state. The county treasurer shall issue a receipt in triplicate one copy of which shall be filed with the secretary of state and another with the state treasurer which certificate shall entitle said applicant for license to operate his said motor vehicle or motor cycle until said number plate and license certificate shall be furnished by the secretary of state; provided, however, that such permission to operate said motor vehicle or motor cycle without such license certificate and number plate provided for herein shall not be a longer period than fifteen days after the payment of the fees herein provided for to the county treasurer. No motor vehicle shall be registered and no change of ownership shall be recorded unless the application for the same shall be accompanied by such county treasurer's receipt showing that the proper fees have been paid. (Id., sec. 3.)

4. Dealer's registration. Each manufacturer of, or dealer in motor vehicles, doing business in this state may register one motor vehicle of each class manufactured by or dealt in by him, and if a number corresponding to the registration number issued to such manufacturer or dealer is displayed as provided in this act, on every vehicle of the class for which it is issued, while such vehicle is being operated on the highways by such manufacturer or dealer or his agent or representative, it shall be deemed sufficient compliance with this act; provided, however, that nothing in this act shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for his private use or for hire. In construing this section, electrically driven motor vehicles shall constitute a class, those propelled by steam a class, and those propelled by gasoline type engines a class. (Id., sec. 4.)

5. Number plates. The owner of each motor vehicle shall have a number corresponding to the registration number assigned by the secretary of state conspicuously displayed upon

the rear of each motor vehicle owned by him, except as in this act otherwise provided, whenever such motor vehicle is used on the highways, such numbers to be separate arabic numerals not less than four inches high and each stroke to be at least one-half inch wide and such numbers shall be followed by the letters KAN, not less than three inches high, and said numbers and letters shall be attached to a plate which shall be in such contrast to the same as to make such letters and numbers easily read. The color of said number plates shall be changed each year by the secretary of state, and from one hour after sunset, till one hour before sunrise such number plate shall be so lighted as to be plainly visible at a distance of fifty feet. No other marks of identity shall be required on said motor vehicle, but upon compliance with this act all such motor vehicles shall be exempt from the provisions of any and all municipal motor vehicle license fees. (Id., sec. 5.)

6. Minimum age; intoxication. It shall be unlawful for any person under fourteen years of age or for any intoxicated person to operate a motor vehicle and any owner, dealer or manufacturer of motor vehicles who permits a person under fourteen years of age or an intoxicated person to operate a motor vehicle shall be deemed guilty of a misdemeanor and shall be punished as hereinafter provided for violation of the provisions of this act. (Id., sec. 6.)

7. Speed regulation. No person shall operate a motor vehicle on any highway outside of a city or village at a rate of speed greater than is reasonable and proper, having regard for the traffic and use of the road and the conditions of the road, nor at a rate of speed such as to endanger the life or limb of any person; provided that a rate of speed in excess of twenty-five miles an hour shall be presumptive evidence of driving at a rate of speed which is not careful and prudent in case of injury to the person or property of another; and within any city or village no motor vehicle shall be operated at a speed greater than twelve miles an hour or at a rate of speed greater than is reasonable and proper, and having regard for the traffic and use of the road, and the condition of the road, nor at a rate of speed such as to endanger the life or limb of any person. Upon approaching railroad crossing and intersection of highways, or a bridge or a sharp curve or a steep descent, or another vehicle or an animal or person outside of any village or city, the person operating a motor vehicle shall reduce the speed of such vehicle to a rate not exceeding eight miles an hour and shall not exceed such speed until entirely past such intersection, bridge, curve, descent, vehicle, animal or person. When crossing an intersection of streets within any city or village, motor vehicles shall not be driven at a speed exceeding six miles per hour. Provided, that the speed limits

in this section shall not apply to physicians or surgeons or police or fire vehicles or ambulances when answering emergency calls demanding excessive speed. (Id., sec. 7.)

8. Road rules. Any person operating a motor vehicle shall at request or on signal by putting up the hand, from a person riding or driving a restive horse or other draught or domestic animal, bring such motor vehicle immediately to a stop, and if traveling in the opposite direction remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in passing such horse or animals, and the operator or occupant of any motor vehicle shall render necessary assistance to the party having in charge such a horse or other draught animal in so passing. Whenever any person traveling with any vehicle or conveyance on any road in this state shall overtake another vehicle or conveyance traveling in the same direction and shall by sound or call indicate to the driver thereof his or her desire to pass, it shall be the duty of the driver of the vehicle or conveyance in front, if the nature of the ground or the condition of his load will permit it, to promptly turn to the right of the center of the road and the driver of the vehicle or conveyance behind shall then turn to the left of the center of the road and pass by without interfering or interrupting, and the driver of said vehicle or conveyance passing shall not return to the center of the road until at least thirty (30) feet ahead of the vehicle or conveyance passed. (Id., sec. 8.)

9. Equipment. Every motor vehicle while in use on public highways shall be provided with good and sufficient brakes, and also with a suitable bell, horn or other signal, and shall have exhibited during the period from one half hour after sunset to one half hour before sunrise, one or more lamps showing white lights visible within a reasonable distance from the direction toward which such vehicle is proceeding, and a red light visible from the reverse direction. (Id., sec. 9.)

10. Violation of act; punishments. The violation of any of the provisions of this act shall be deemed a misdemeanor punishable by a fine not exceeding fifty dollars for the first offense, and punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding sixty days in the county jail, or by both such fine and imprisonment for each subsequent offense. (Id., sec. 10.)

11. Nonresidents. The provisions of this act so far as they relate to registration and fees shall not apply to motor vehicles owned and operated, for a period not exceeding thirty days at a time, by nonresidents of this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in the state, territory, or federal district of their residence, and providing the registration

number and initials of such state, territory or federal district shall be displayed on such vehicle substantially as provided in this act. (Id., sec. 11.)

12. Power of cities. The cities of the first, second and third class of this state shall have power by local ordinance to regulate and control the use and speed of automobiles and motor vehicles within the limits of said cities and prescribe penalties for the violation thereof; such ordinances not to be inconsistent or repugnant with the provisions of this act. (Sec. 454, G. S. 1909.)

13. Intoxication or drug using prohibited. It shall be unlawful for any person under the influence of intoxicating liquor or any exhilarating or stupefying drug to drive, operate or have charge of the power or guidance of any automobile, motorcycle or any motor vehicle propelled by other than muscular power, upon any public road, highway, street, avenue, driveway or alley within the state of Kansas. And that the taking or use of any intoxicating liquor or exhilarating or stupefying drug by the person driving, operating or in charge of the power and guidance of any automobile, motorcycle or other vehicle or while operating such vehicle propelled by other than muscular power, within a reasonable time prior to taking charge or guidance of such vehicle shall be construed as *prima facie* evidence that such person is under the influence thereof. (L. 1915, ch. 235, sec. 1.)

14. Penalty. That any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 or be imprisoned in the county jail for a period not less than ten days. (Id., sec. 2.)

BRIDGES.

PROVIDING FOR THE BUILDING OF BRIDGES.

15. County commissioners determine what bridges built. The county commissioners of each county shall determine what bridges shall be built and repaired at the expense of the county, and what by the road district; provided, that in all counties having a population of less than 10,000 whenever a majority of the members of any township board and of the members of the board of county commissioners in any county in this state shall determine that any bridge to cost more than two hundred dollars and less than one thousand dollars is necessary, the same shall be built in the manner now provided by law and paid for out of the county treasury of the county out of any money in the county treasury for county expenses. (L. 1911, ch. 70, sec. 1.)

16. Appointment of commissioner. If the board of county commissioners of any county be of the opinion that a bridge is necessary, and that the estimated expense of building said bridge exceeds two hundred dollars, they shall determine in what manner and of what material the same shall be built, and shall appoint the township trustee commissioner to contract for building such bridge. Said commissioner shall take an oath faithfully to perform the duties enjoined on him by this act. (Sec. 644, G. S. 1909.)

17. Duties of commissioner; appropriation. Unless the board of county commissioners, from their own information, shall be satisfied as to the expense of building any bridge required to be built, and shall make an appropriation accordingly, it shall be the duty of the board of county commissioners to appoint a commissioner aforesaid, provided said commissioner resides in the township in which said bridge is to be built, and require him to proceed to the spot where the bridge is to be built, and make an accurate estimate of the cost of building the same according to any plan or plans ordered by said board of county commissioners, or such, as in his opinion, may be best, and without delay make report thereof; and the board of county commissioners then may, or may not, in their discretion, make an appropriation for building said bridge, which appropriation shall in no event exceed the estimate made by the commissioner. (Sec. 645, G. S. 1909.)

18. Cost \$200 or less. If the estimated cost of building a bridge shall be two hundred dollars or less, then the fact shall be certified to the overseer of the road district in which the bridge is to be built, and the county commissioners shall not make any appropriation therefor. (Sec. 646, G. S. 1909.)

19. Advertisement. The commissioner shall advertise the time and place for letting the bridge, at three public places in the township where such bridge is to be built, twenty days prior to letting the same, and shall receive sealed proposals for building the same until 12 o'clock M. of the day for letting said contract. (Sec. 647, G. S. 1909.)

20. Lowest responsible bidder. He shall let the same to the lowest responsible bidder, which bid shall in no event exceed the estimate made as aforesaid by the commissioner; and shall take a bond, payable to the county, with good and sufficient security, from the person to whom the contract is awarded, in such penalty as shall be sufficient to cover all damages which may accrue from the breach of his contract. (Sec. 648, G. S. 1909.)

21. How paid for. The board of county commissioners may order the expense of building such bridge to be paid out of any money in the county treasury for county expenses. (Sec. 649, G. S. 1909.)

22. Bridge repairs. Whenever it is necessary to repair any public bridge in the county (for which the county has appropriated money for the construction thereof), the county commissioners shall forthwith require the township trustee of the township in which such bridge is erected to proceed and examine the bridge so needing repairs, and make an accurate estimate of the cost of repairing the same, and in what particular it needs repairing, and without delay make report thereof; and the county commissioners shall thereupon make an appropriation for such repairs, and proceed forthwith to cause said bridge to be repaired in the way they may order and direct. (Sec. 651, G. S. 1909.)

23. Between counties. If a bridge be necessary over any watercourse which divides one county from another, the county commissioners of both counties shall unite in appointing a commissioner for building said bridge, and the expense shall be defrayed by both counties in proportion to the amount of tax of each county, to be ascertained by the tax-list taken next before the contract for building such bridge shall be made; provided, that the respective boards of county commissioners of such counties are hereby authorized and may agree to bear such expense for building such bridge upon a different ratio or proportion than is herein established. (Sec. 652, G. S. 1909.)

24. Disinterested. No commissioner shall be an undertaker for building a bridge for which he is commissioner, nor be security for any undertaker. (Sec. 653, G. S. 1909.)

25. Pay of commissioner. Each commissioner shall be allowed one dollar and fifty cents for each day necessarily and actually spent in the discharge of the duties required of him by this act, to be paid out of the county treasury, upon the order of the board of county commissioners. (Sec. 654; G. S. 1909.)

26. When cost shall exceed \$5000. That whenever the board of county commissioners of any county shall determine that any bridge or bridges are necessary to be built or repaired in their county, it may in accordance with the statutes of this state, make an appropriation therefor, not to exceed the sum of five thousand dollars for each of said bridges; provided, that where it is necessary in the opinion of the board to build or repair a bridge the cost of which shall exceed the sum of five thousand dollars, it shall before making an appropriation therefor, submit the question to the qualified voters of the county at either a general or special election, when if a majority of the votes cast on the proposition submitted shall be in favor thereof, the board shall make the appropriation in accordance with the terms of the proposition submitted; and provided further, that in counties having an assessed valuation of \$15,000,000 and not more than \$20,000,000 the county com-

missioners may make an appropriation not to exceed \$7,500; in counties having an assessed valuation of \$20,000,000 and not more than \$30,000,000 in an amount not to exceed \$10,000; in counties having an assessed valuation of \$30,000,000 and not more than \$40,000,000 in an amount not to exceed \$15,000; in counties having an assessed valuation of \$40,000,000 and not more than \$50,000,000 in an amount not to exceed \$20,000; in counties having an assessed valuation of \$50,000,000 or more in an amount not to exceed \$25,000 for such bridge, or each of such bridges without submitting such proposition to the voters as aforesaid; provided, that notice of the resolution making said appropriation, setting out the full text thereof, shall be published once in the official county paper; and provided further, if within thirty days after the board of county commissioners publishes such notice of such resolution a petition signed by ten per cent of the legal voters shall be presented to the board of commissioners requesting that the question be submitted to the people, the board of commissioners shall order said election, and if a majority of the votes cast on the proposition submitted shall be in favor thereof, the board shall make the appropriation; and when the sum to be appropriated shall exceed five thousand dollars the board of county commissioners may provide for the payment of the same by orders on the county treasurer, payable in such sums and at such times as may be agreed to by the contracting parties for the building or repairing of such bridge or bridges, but in no such case shall such orders be given for a longer time than three years from the completion of the building or repairing of said bridge or bridges; and for the payment of such orders the board of county commissioners shall levy a tax sufficient to pay the same as they become due; provided, that nothing in this act shall apply to any bridge work or bond issue therefor under the provisions of chapter 64, Session Laws of 1909. (L. 1911, ch. 68, sec. 1.)

27. Two or more bridges. If any proposition submitted under the provisions of this act shall relate to two or more bridges, such proposition shall be subdivided, and shall plainly state the amount and amounts desired for each bridge, and shall be so submitted that the voter may express his will on each subdivision of said proposition, separately. (Sec. 656, G. S. 1909.)

28. Election. Any special election called under the provisions of this act shall be held under the provisions of the general election laws, so far as the same are applicable; and it shall be the duty of the sheriff to give notice of said election by proclamation, at least thirty days before the time of holding such election, stating clearly the proposition to be voted on. (Sec. 657, G. S. 1909.)

29. Defective; damages. Any person who shall without contributing negligence on his part sustain damage by reason of any defective bridge, culvert, or highway, may recover such damage from the county or township wherein such defective bridge, culvert or highway is located, as hereinafter provided; that is to say, such recovery may be from the county when such damage was caused by a defective bridge constructed wholly or partially by such county, and when the chairman of the board of county commissioners of such county shall have had notice of such defects for at least five days prior to the time when such damage was sustained; and in other cases such recovery may be from the township, where the trustee of such township shall have had like notice of such defect. (Sec. 658, G. S. 1909.)

30. Guard-rails. It shall be the duty of the township trustees of the several townships in each county in this state to cause to be placed, in a substantial manner, and maintained in good repair, on each and every bridge of a span of ten feet and over erected by any township or road district upon any public highway in their respective townships, good and sufficient guard-rails on each side of any such bridge. (Sec. 659, G. S. 1909.)

BUILDING AND REPAIRING BRIDGES IN COUNTIES HAVING
TWENTY THOUSAND INHABITANTS OR MORE, AND IN
COUNTIES NAMED.

31. Certain counties. It shall be the duty of the board of county commissioners in counties having a population of twenty thousand inhabitants or more, and in the counties of Clay, Davis, Harper, Barton, Washington, Dickinson, Linn, Pottawatomie, Greenwood, Chase, Neosho, Wilson, Republic, Crawford, Stafford, Lyon, Rice, Brown, Miami, Woodson, Cloud, Lincoln, and Allen, to determine what bridges shall be built and repaired by and at the expense of the county, and what bridges shall be built by and at the expense of the township; and to determine the amount that shall be appropriated out of the funds of the county for building or repairing any such bridges, not exceeding two thousand dollars for building any one bridge. (Sec. 660, G. S. 1909.)

32. Plan and estimate. When the board of county commissioners deem it necessary to build a bridge, it shall determine upon a plan, the material to be used, and estimate the cost thereof. The cost being more than one hundred dollars, it may make an appropriation to build such bridge—not more than the estimated cost thereof. (Sec. 661, G. S. 1909.)

33. Superintendent. The board of county commissioners may appoint the township trustee or the road overseer of the district in which the bridge is located, or other suitable person,

to superintend the construction of the same. (Sec. 662, G. S. 1909.)

34. When cost less than \$100. If the estimated cost of building a bridge shall be less than one hundred dollars, it shall be built at the expense of the township or road district in which it is, or by both, as the township trustee shall direct. (Sec. 663, G. S. 1909.)

35. Advertise for bids; notice. The plans and specifications for the bridge shall be left in the office of the county clerk for inspection, and such clerk shall give twenty days' notice of the time of letting the contract to build the same, in the official paper of the county; each bid to be sealed, and accompanied by a deposit of fifty dollars. If the lowest bidder shall fail to accept and execute the contract, as hereinafter provided, his deposit shall be forfeited, and paid into the bridge fund. (Sec. 664, G. S. 1909.)

36. Letting contract. Bids shall be opened at twelve o'clock M. on the day named in the notice, in the presence of said board, and the board must let the contract to the lowest responsible bidder complying with the requirements of this act, unless the board is of the opinion that the bids are too high, when it shall reject the same; provided, that when such notice has been given, and the bids received, and rejected for the reason that the same were too high, the board may thereafter award the contract for any sum lower than the lowest bid so rejected to any responsible person complying with the provisions of this act; and provided further, that if the same can not be let to such person or persons for such lower sum, the board shall be allowed to purchase the material for said bridge and award the contract for the construction of same to any responsible person complying with the requirements of this act; provided, that the cost of said bridge and the construction thereof shall not exceed the lowest bid so rejected. (Sec. 665, G. S. 1909.)

37. Bond. The person or persons to whom the contract is awarded shall, at the time of the execution of such contract, execute a bond with good and sufficient sureties, payable to the county, for the benefit of the bridge fund, in such sum as the board shall direct, conditioned for the faithful performance of such contract. When the bridge is completed according to the contract the board shall accept the same, and shall order it paid for out of the bridge fund. (Sec. 666, G. S. 1909.)

38. Bridge needing repairs. When a bridge built by the county is out of repair, the board shall estimate the cost of repairing it, and make an appropriation therefor; and may require the township trustee of the township, or the overseer of the road district in which the bridge is located, or some other suitable person, to proceed immediately to repair the

same, as the board may direct; provided, that if the costs of repairing the same exceed one hundred dollars, then like preliminary steps shall be taken as in building a bridge. (Sec. 667, G. S. 1909.)

39. Connecting two counties. If a bridge be necessary over any watercourse or upon any road that divides one county from another, the board of county commissioners of both counties shall unite in appointing a person to superintend the building of said bridge; and the expense shall be defrayed by both counties in proportion to the amount of tax of both counties, to be ascertained by the tax list taken next before the contract for building such bridge shall be made; and in all such cases, the same proceedings, so far as applicable, shall be had as provided in this act, by the board of the county paying the largest amount of tax, and agreed to by the board of the other county in interest. (Sec. 668, G. S. 1909.)

40. Who not to be contractor. No person appointed to superintend the building or repairing of a bridge shall be contractor, or security for any contractor, for building such bridge. (Sec. 669, G. S. 1909.)

41. Road overseer to inspect. It shall be the duty of each overseer of every road district to inspect all the bridges in his district from time to time, and in case repairs become necessary to any bridge, or approach to a bridge, of such character that they can be done with the road labor and other means at his command in his road district, then he shall proceed forthwith to make such repairs. If the repairs are of such character that they can not be done by the road overseer with the means at his disposal, then he shall report the same to the county board for their action under this act. When the continuance of travel over a bridge needing repairs is dangerous to the traveling public, then the overseer of the road district in which such bridge is located shall close the same immediately from travel until it is repaired. (Sec. 670, G. S. 1909.)

42. Pay of superintendent. Each person appointed to superintend the building or repairing of a bridge shall be allowed the sum of one dollar and fifty cents for each day necessarily and actually spent in the discharge of the duties required of him by this act, to be paid out of the bridge fund, upon the order of the board of county commissioners. (Sec. 671, G. S. 1909.)

43. Penalty. Any officer or person who shall violate any of the provisions of this act, or who shall fail or neglect to perform his duties as required by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace in said county shall be fined in a sum not less than five or more than fifty dollars, and shall forfeit his office. And it shall be a part of the judgment of the said

justice of the peace before whom the case is tried, on such conviction, that such officer or person be removed from office, and that he stand committed to the county jail until the fine and the costs of prosecution are paid. The fine so collected shall be paid into the bridge fund. Any freeholder may make the complaint, and it shall be the duty of the county attorney to prosecute the same. (Sec. 672, G. S. 1909.)

44. Election. When the expense of building any bridge shall be estimated to be more than two thousand dollars, no appropriation shall be made therefor out of the county treasury until the question has been submitted to the people of the county at some general election, when, if a majority shall vote for the appropriation, the county commissioners shall make the appropriation as hereinbefore provided. (Sec. 673, G. S. 1909.)

RECONSTRUCTION OF BRIDGES, CERTAIN COUNTIES.

45. Reconstruction of public bridges, counties of over \$90,000,000 valuation. Whenever in any county having an assessed valuation for taxation purposes of over ninety million dollars the board of directors of any drainage district organized under the laws of this state, under the powers vested in them, shall prescribe, regulate or fix the height of any public bridge located within said district or the length of spans and the location of piers or abutments of any such bridge, or shall locate harbor lines for or establish the channel of any stream within such district, and shall notify and request, in writing, the board of county commissioners to change, alter or reconstruct any such bridge or bridges to conform to such harbor lines, channel or requirements; or whenever in any county the secretary of war of the United States, or any other competent authority, shall request, order or direct, in writing, the reconstruction, raising or lengthening of any public bridge, or the spans thereof, over any navigable stream, or shall request, order or direct the reconstruction or relocation of the piers or abutments of any public bridge over a navigable stream, or shall establish harbor lines or otherwise designate the channel for any navigable stream, and shall request, order or direct the reconstruction of bridges to conform thereto; the board of county commissioners of the county wherein such public bridge is located is hereby authorized and empowered to reconstruct such bridges and approaches thereto, raise, lengthen and repair such bridges, and to reconstruct, remove and relocate the abutments and piers thereof, and to improve such bridges in any other respect required, and to do any and all acts necessary to conform to such requirements, in the manner hereinafter provided, and for the purpose of paying for such improvements may issue bonds of such county without the same being authorized by any election, and subject only to

the limitations contained in this act. The amount of bonds so authorized to be issued shall not exceed the actual cost of such improvements. (Sec. 674, G. S. 1909.)

46. Contract for reconstruction. The reconstruction, improvement, removal and relocation of bridges or approaches thereto provided for in this act shall be by written contract separately made and awarded as to each bridge, to the lowest responsible bidder, upon sealed proposals, based upon plans and specifications therefor on file in the office of the county clerk of the county. The county surveyor of the county, when so directed to do by the board of county commissioners, shall make all necessary surveys and investigations and prepare plans and specifications for the reconstruction, improvement, removal or relocation of any bridge or the approaches thereto, together with an estimate under oath of the cost thereof, and file such plans, specifications and estimate in the office of the county clerk of the county. No contract shall be awarded for any such improvement at a price in excess of said estimated cost. The board of county commissioners shall have power, if they deem it necessary, to employ engineers to assist the county surveyor in preparing plans and specifications or superintending the construction of such improvements, and to pay such engineers out of the proceeds of bonds issued on account of the cost thereof. After considering and approving plans and specifications, prepared and filed as aforesaid, the board of county commissioners shall advertise for three consecutive weeks in the official county paper for sealed proposals for the construction of such improvements or work, in accordance with the plans and specifications therefor. The board of county commissioners shall require any contractor to whom any such contract is awarded to enter into a written contract, and to secure the performance thereof by a bond signed by two or more surety companies. All bids for the construction of any such improvement or work shall be presented simultaneously to the board of county commissioners and opened forthwith by them, in the presence of the public and all bidders present. (Sec. 675, G. S. 1909.)

47. Bonds to pay for work. In order to pay for the reconstruction, improvement, removal or relocation of any bridge and approaches thereto, provided for in this act, the board of county commissioners of such counties shall be and are hereby authorized and empowered, for and on behalf of such counties, to issue negotiable bonds of such counties. Such bonds may be issued to the contractor reconstructing, improving, removing or relocating any bridge or approaches thereto, in payment therefor, or the said board may sell such bonds and pay the contractor from the proceeds thereof. Such bonds shall be made payable in ten equal annual series, beginning twenty years from the date thereof, and shall bear interest at a rate

not to exceed four and one-half per cent per annum, and shall have semi-annual interest coupons attached thereto. It shall be the duty of the board of county commissioners of any county issuing such bonds, annually at the time of levying other taxes, to levy a tax each year sufficient to pay the interest on said bonds as the same become due on all taxable property of such county, and such commissioners are further empowered and it shall be their duty before the date of maturity of any series of such bonds to levy a tax for the payment of such series at the maturity thereof, and all moneys realized from the sale of such bonds shall be used only for the purpose herein specified. No bonds issued in pursuance of this act shall be sold for less than their par value, nor shall any commission be paid for the sale thereof. Said bonds shall be signed on behalf of the county issuing the same, by the chairman of the board of county commissioners, and attested by the county clerk of said county, with the seal of the county thereto attached, and duly registered by said county clerk in his office, and such registration shall be certified to by the said county clerk upon said bonds by his official signature and the seal of the county. Said bonds shall also be registered by the auditor of the state, and he shall certify on such bonds to the registration thereof by his official signature and seal of office. Said bonds may be issued at any time after the awarding of a contract for the reconstruction, removal or improvement of any bridge. All bonds issued under the provisions of this act shall contain a recital that the same are issued under the provisions of this act and in conformity with the provisions, restrictions and limitations thereof, and that such bonds and the interest thereon are to be paid by a general tax levied upon all the taxable property of the county issuing the same, and such recital shall be conclusive in favor of all persons purchasing such bonds that all proper acts have been done, proceedings taken and conditions precedent performed and existing to authorize the issue of such bonds and the levy of all taxes necessary for the payment of the principal and the interest thereof, as and when the same become due by the terms thereof. (Sec. 676, G. S. 1909.)

48. Reconstruction and relocation. The board of county commissioners is hereby authorized to enter into contracts with any county, township, city, drainage district, municipality, person, company or corporation, located within or without this state, for the reconstruction, improvement, removal, relocation, maintenance, regulation or use of any bridge and approaches thereto, reconstructed under this act, and if such contract shall be entered into between any board of county commissioners of such county and any other county, township, city, drainage district, municipality, person, company or corporation, as to the reconstruction, improvement, removal, relocation, maintenance, regulation or use of any such bridge or

bridges, then such commissioners shall not issue the bonds of the county for a greater amount on account of the reconstruction, improvement, removal or relocation of any such bridge or bridges than the cost thereof, after deducting therefrom the amount paid or agreed to be paid by such other county, township, city, drainage district, municipality, person, company or corporation; provided, that no contract with or contribution by any such other county, township, city, drainage district, municipality, person, company or corporation for the joint use of any bridge or the construction thereof shall confer upon any such other county, township, city, drainage district, person, company or corporation any exclusive privilege or right to use such bridge or preclude the county commissioners of the county reconstructing, improving or relocating any such bridge from the granting of like or similar privileges to others to use such bridges upon such terms as may be prescribed by such board of county commissioners or other authorities having control thereof. No street railway or other railway company shall construct, lay or maintain any tracks upon or use for the transportation of passengers or freight any bridge reconstructed or improved under the provisions of this act without first paying to the county reconstructing or improving such bridge one-half of the total cost of such reconstruction or improvement of such bridge and the approaches thereto, and no other person or corporation shall use such bridge or the piers thereof for any private use without first paying to the county constructing the same such sum as the county commissioners thereof, or other authorities having control of such bridge, shall require as compensation for such use. If any street railway or railway corporation shall construct, lay or maintain any tracks upon or use for the transportation of its passengers or freight any bridge reconstructed or improved under the provisions of this act without first paying therefor as above provided, it shall thereby become liable to the county for one-half of the cost of the reconstruction or improvement of such bridge, and such county may sue for and recover such sum in any court of competent jurisdiction, and the use of such bridge by any street railway or railway corporation for the transportation of any cars, passengers or freight, or the construction or maintenance of tracks thereon, may also be enjoined until compensation is made therefor, as hereinbefore provided. All money received for the use of such bridges shall be used in the reconstruction or improvement thereof, or in the payment of bonds and interest thereon, issued on account of the reconstruction or improvement of such bridges: Provided however, that the board of county commissioners may make a contract for monthly rental with any street railway company for the use of such bridge. Such rental shall not be less than a sum sufficient to pay the interest

on one-half of the bonds issued for the reconstruction or improvement of such bridge and approaches thereto and create a sinking fund for the payment of one-half of said bonds within a period of thirty years. (L. 1913, ch. 68, sec. 1.)

49. Duty of county board to relocate and reconstruct bridge. It shall be the duty of the county commissioners of any county of this state to which this act applies now or hereafter having therein any public bridge or bridges over any navigable river, which bridge or bridges have been ordered or shall hereafter be ordered or required by the secretary of war of the United States, or the board of directors of any drainage district organized under the laws of this state, in any county having an assessed valuation for taxation purposes of over ninety million dollars, to be removed, relocated, reconstructed or improved, to take possession of such bridges and to forthwith remove, relocate, reconstruct or improve the same, as may be necessary and proper, and the ownership and control of such bridges is hereby vested in such counties, and the board of county commissioners thereof are hereby authorized and empowered to use any part or portion of any such bridge in the reconstruction of such bridges or of any other bridge or viaduct situated in their county, or to sell or dispose of the materials composing any such bridge, and to use the proceeds of such sale in the reconstruction or improvement of bridges over rivers situated in said county. The provisions of this act shall apply to all public bridges, and all parts thereof, used by any street railway company or any other corporation, and to all public bridges heretofore constructed over any such river by counties, either with or without the aid, assistance or coöperation of any street railway company or other person or corporation, and also to public bridges situated in or constructed by or under the control of any city or any other municipality. Should any relocation, change or alteration of the channel of any river by any competent authority necessitate the removal, relocation or reconstruction of bridges over the channel of such river as relocated or altered, such work shall be done and such improvements made under the provisions of this act. Bridges constructed, reconstructed, improved or relocated under the provisions of this act shall be under the control of and maintained by the board of county commissioners of the county, and such county commissioners shall also have power to contract with any city in which any such bridge is situated, or with any corporation using any such bridge, for the maintenance or repair thereof. (Sec. 678, G. S. 1909.)

CONCRETE CONSTRUCTION OF BRIDGES; CITIES SECOND CLASS
MAKE CONTRACTS; RIGHTS OF CORPORATIONS.

50. Concrete construction given preference. That it shall be the duty of the board of county commissioners of each county, and the mayor and common council of each incorpo-

rated city, and the township board of each township in the state, in constructing bridges and culverts on the public roads and highways over which said officials have control, to cause the said bridges and culverts to be constructed of concrete, reinforced concrete, stone, corrugated iron, which shall be ninety-nine per cent pure, or steel, or both in preference to steel, in each and every case where such bridge or culvert can be constructed at a cost not to exceed 130 per cent of the cost of building said bridge or culvert of steel. Said officials shall not consider bids on any bridge or culvert made of concrete, reinforced concrete, or stone, which is not designed to safely carry a uniform live load of at least two hundred pounds per square foot of floor surface, nor on a bridge or culvert of seventy-five-foot span or less made of any other material except wood, which is not designed to safely carry a uniform live load of not less than one hundred pounds per square foot of floor surface; nor shall said officials consider bids upon a plan which is not designed with a smaller factor of safety than four; provided, that every concrete, reinforced concrete, stone, or steel bridge with a concrete floor, shall be guaranteed by the contractor for a period of four years after the completion of said bridge against defects of design, workmanship or materials, said guarantee to be covered by an approved surety bond issued by a company authorized to do business in the state of Kansas. (L. 1913, ch. 70, sec. 1.)

51. Limit increased. After the passage of this act all limits placed by law upon the letting of contracts for the building of bridges and culverts shall be increased by thirty per cent thereof, when applied to bridges or culverts made of concrete, reinforced-concrete stone or corrugated iron. (L. 1911, ch. 69, sec. 2.)

52. Cities second class contract for construction. That all cities of the second class are hereby authorized and empowered to contract for the construction, repairing, and building of bridges which may be located entirely within the corporate limits of such cities; and may contribute to the cost of construction of such bridges when the same are built under the direction, and at the partial cost, of the county in which the same may be located. (L. 1913, ch. 72, sec. 1.)

53. That for the purpose of enabling such cities to carry out the provisions of section 1 of this act, such cities are hereby authorized and directed to issue their bonds in not to exceed the sum of \$4000.00. Which said bonds shall be in addition to the bonded indebtedness of such cities as now limited by law; provided, however, that such bonds shall not be issued until the same shall have been authorized by a majority of the electors of any such city at some general or special election at which the proposition shall have been submitted to them. (Id., sec. 2.)

54. Such bonds shall bear interest at not to exceed five (5) per cent per annum, and shall be payable in not more than twenty years from their date. And it shall be the duty of such cities to levy annually a tax sufficient to create a sinking fund with which to retire said bonds at their maturity and no commission shall be paid for the sale of such bonds either directly or indirectly. (Id., sec. 3.)

55. Bridges; public highways. Nothing in this act shall be so construed as to allow any corporation organized under this act to interfere with or in any manner obstruct the free use of any bridge erected or in process of erection at the time of filing the charter of such corporation, except that such corporation shall have the right to make all necessary excavation or any other work necessary to be done in constructing canals or passage-ways, with drawbridges for the passage of boats around any bridge or bridges erected or in process of erection as aforesaid, and that all canals, passage-ways and drawbridges so constructed shall be under exclusive control of the corporation so constructing them; provided, that in case any public highway shall be destroyed or obstructed by the flowage of any stream in consequence of the erection of any dam or dams, or otherwise, such corporation shall bridge such streams at the place or places where such highways have been destroyed, and maintain the same; and in case of a partial obstruction of such highway, the said highway shall be repaired and maintained as a good, passable highway by such corporation. (Sec. 1901, G. S. 1909.)

ROADS AND HIGHWAYS.

LAYING OUT, MAINTAINING AND IMPROVING PUBLIC HIGHWAYS; DUTIES OF OFFICERS.

56. Terms and names defined. That unless inconsistent with the context, words and phrases used in this act shall be defined and construed as follows: (1) The phrase "highway commissioners," the board of highway commissioners composed of the township trustee, the township clerk and the township treasurer of the various municipal townships in the state. (2) The phrase "county engineer," the officer appointed by the board of county commissioners of each county in the state to be county engineer of roads and bridges. (3) The phrase "mail routes," the free rural delivery mail routes within a municipal township. (4) The phrase "township roads," all roads within a township other than free rural delivery mail routes. (5) The phrase "state roads," all roads laid out and defined by the state of Kansas.* (6) The phrase "county

* The state shall never be a party in carrying on any works of internal improvements. (Constitution, § 209.)

roads," all roads designated as such by the board of county commissioners of a county connecting cities and market centers, whether both such cities or centers are within the county, or one is within and the other without the county. (L. 1911, ch. 248, sec. 1.)

57. Applications; petition. That applications for laying out roads, or for viewing, reviewing, altering or vacating any road, shall be by petition to the board of county commissioners, signed by at least twelve householders of the county residing in the vicinity where said road is to be laid out, viewed, reviewed, altered or vacated; and one or more of the signers of any petition presented as aforesaid shall enter into a bond with sufficient sureties, payable to the state of Kansas, for the use of the county, to be approved by the county commissioners, conditioned that the persons signing such bond shall pay into the treasury of the county the amount of all costs and expenses accruing on said location, view, review, alteration or vacation, in case the proceedings had in pursuance of said petition shall not be finally confirmed and established; and on neglect or refusal of the persons so bound, after a liability shall have accrued, the county clerk of the county shall collect or cause to be collected such costs and expenses, and pay the same into the county treasury. (Id., sec. 2.)

58. Petitions specify location. That all petitions for laying out or altering a road shall specify the place of beginning, the intermediate points, if any, and the place of termination of such road. (Id., sec. 3.)

59. Viewers appointed. That upon presentation of any petition for a road, or for the alteration or vacation of any road, to the county commissioners, at any regular session of their board, it shall be the duty of said commissioners, if they find the petition to be a legal one, and that the proper bond has been filed, to appoint three disinterested householders of the county as viewers with said commissioners, who may act as viewers of said road, and the county clerk shall give notice by advertisement set up in the county clerk's office and in every municipal township through which any part of said road is designed to be laid out, altered, or vacated, for at least twenty days, and by publication for two consecutive weeks in a newspaper of general circulation in the county setting forth that such petition has been presented, giving the substance thereof, and that the commissioners or the viewers, on the day designated, which shall not be more than twenty days after the date of the second publication in the newspaper of the notice herein required, will proceed to view the said road, and give all parties a hearing. They shall also cause a record of such notice to be entered on their journal by the county clerk. They shall issue an order directing the county surveyor to

meet with them at the time and place named in said notice to survey such road. In case of failure to meet on the day designated, they may meet on the following day, without further notice; and in case of failure to meet within the time herein specified, new notice shall be given as hereinbefore provided; that in all applications for the location, change and relocation of any road to be located upon or along any section line, and the petition shall so state, and shall specify the section lines to be followed, the place of beginning and the place of ending, the survey may be dispensed with, and in case the owners of the lands taken agree in writing to the proposed location, relocation, or change, and the commissioners are satisfied that the location, relocation or change prayed for is practicable, and can be made without unreasonable expense, they may dispense with the viewing of such location, relocation or change of road, and shall order the same to be surveyed, platted and opened, and shall also direct the county engineer to note such location, relocation or change of roads upon the road records of his office. (Id., sec. 4.)

60. Notice to land owners. That it shall be the duty of at least one of the petitioners to cause six days' notice to be given in writing to the owner or owners or their agents, if residing in the county, or if such owner be a minor, idiot or insane person, then to the guardian of such person, if a resident of the county, through whose land such road is proposed to be laid out and established, and also six days' notice to the county surveyor of the time and place of meeting, as specified in the notice of the commissioners. Copies of said notice of lands, with affidavits of service attached, shall be filed in the county clerk's office before said road shall be established. (Id., sec. 5.)

61. Duty of commissioners or viewers; survey and plat. That it shall be the duty of the commissioners or said viewers, or a majority of them, and the county surveyor to meet at the time and place specified in the notice aforesaid, or on the following day thereafter, and they may, if they deem it necessary, take to their assistance two suitable persons as chain carriers and one as marker, and then proceed to view, survey, lay out, alter or vacate the road as prayed for in said petition, or as nearly so as a good road can be made at a reasonable expense, taking into consideration the utility, convenience and inconvenience, and expense which will result to individuals as well as to the public, if such road, or any part thereof, shall be established and opened or altered. Said commissioners or viewers shall also assess and determine the amount of damages sustained by any person or persons through whose premises the said road is proposed to be established. Such commissioners or viewers shall not assess or award damages or compensation to any person or persons in consequence of the opening

of said road, unless the owner or owners, or their agents, or guardians, having been duly notified as provided in this act of the applications and proceedings by which their property is sought to be appropriated or damaged, shall have filed a written application with said commissioners, giving a description of the premises on which damages or compensation are claimed, at the time of said view and hearing, as hereinbefore provided for; provided, that in case any person has not received the notice of the view of said road, as hereinbefore provided for, he may at any time within twelve months after the location of said road file an application for damages with the county commissioners, who shall determine the amount of damages sustained by such claimant; and all applications for damages shall be forever barred unless they are presented as provided for in this act. If the commissioners or viewers, after viewing such proposed road, shall so direct, the county surveyor shall survey the said road under their direction, and cause the same to be conspicuously marked throughout, noting the courses and distances. He shall also make out and deliver to the county clerk, without delay, a correct and certified return of the survey of the said road, and a plat of the same, and the said commissioners or viewers shall make out and sign a certificate stating their opinion in favor of or against the establishment, alteration or vacation of said road or any part thereof, and set forth the reason of the same, which certificate shall be filed with the county clerk on or before the first day of the session of the commissioners then next ensuing; and at such session next ensuing the said commissioners shall, if they conclude that said road should be established, altered, or vacated, and no legal objections appear against the same, and they are satisfied that such road will be of public utility, enter an order upon their records that said road, survey and plat be recorded in the office of the county surveyor and from thenceforth said road shall be considered a public highway, and the county surveyor shall issue his order to the trustees of the respective townships in which said road is located, directing them to cause the same to be opened for the public travel at the time and in the manner indicated by him; but if the commissioners conclude that such road as applied for is unnecessary or impracticable, then no further proceedings shall be had thereon and the obligor or obligors on the bond securing costs shall be liable for the full amount of all costs accrued by reason of the view of said road. (Id., sec. 6.)

62. Damages awarded; appeals. That it shall be the duty of the commissioners or viewers, at the same time they make their certificate of the view, if favorable, to make also a separate certificate in writing stating the amount of damage, if any, by them assessed, and to whom, and submit therewith the

written application upon which the assessments have been made. Any person feeling himself aggrieved by the award or damages made by the board of county commissioners may appeal from the decisions of said board of county commissioners to the district court upon the same terms, in the same manner and with like effect as in appeals from judgments of justices of the peace in civil cases. (Id., sec. 7.)

63. Review. That when the place of beginning or true course of any road shall be uncertain by reason of the removal of any monument or marked tree by which the road was originally designated, or from any other cause, the county commissioners shall constitute a board of review, or the county commissioners may appoint three disinterested householders of the county, and they may review, remark and straighten said road, if they deem it necessary; and the county surveyor, with said commissioners or the viewers, shall view and resurvey the same, and shall have the same correctly marked, as in the case of a new road, and shall make a correct return of said survey and a plat of said road; and the same, together with the certificate of the commissioners or viewers, shall be recorded as in other cases, and from thenceforth said road, surveyed as aforesaid, shall be considered a public highway. (Id., sec. 8.)

64. County line road. That when it shall become necessary to establish a road on a county line, the inhabitants along such line may petition the board of commissioners of their respective counties for a view of said road in the manner hereinbefore provided; and it shall be the duty of the board of commissioners for each of the counties interested to act as viewers, or they may appoint three disinterested householders of the county, and they or a majority of each of them shall meet at the time and place named in the order of the county interested as in alphabetical order, together with the county surveyor of such county, and the commissioners or viewers shall assess all damages, and shall in all respects be governed by the preceding provisions of this act; and the commissioners or viewers and surveyor aforesaid shall make their report and certificate, in writing, for or against such road, which shall be filed and recorded in each of the counties as hereinbefore provided for. And when it shall become necessary to establish a road on the line of any city, the board of commissioners of the county, together with three householders appointed by the corporate authorities of such city, shall act as a board of viewers, who shall proceed as directed herein to lay off a road of the width that may be agreed upon by said commissioners and said corporate authorities, not to exceed eighty feet in width, half on the side of the city and the other half on the side of the county, or the county commissioners and the viewers appointed by the corporate authorities may act separately in laying off so much

of said road as lies within their respective jurisdictions; and the certificate of said commissioners in regard to said road and the survey and plat of the same shall be filed and recorded as in other cases, and said road shall be opened in the manner hereinbefore provided for. (Id., sec. 9.)

65. Compensation for employment in laying out roads. That all persons required to render services under this act shall receive compensation for each day they shall necessarily be employed as follows, to wit: On part of the board of county commissioners while acting in this capacity, three dollars each and their actual expense in going to and returning from such view; viewers, three dollars each; chain-carriers and markers, two dollars each; to be charged as costs and expenses, and paid as other costs and expenses, on order of the commissioners; provided, that the surveyor shall be paid for his services in the manner prescribed by law. (Id., sec. 10.)

66. County engineer to open roads; notice to owners. That it shall be the duty of each and every county engineer to open or cause to be opened all state and county roads and of each and every township trustee to open or cause to be opened all mail routes and township roads which have been or may hereafter be laid out or established through any part of the respective county or township, first giving notice to the owner or owners, or their agent or agents, if residing in the county, or, if such owner be a minor, idiot, or insane person, then to the guardian of such person, if a resident of the county, through whose inclosed or cultivated lands such road is laid out or established, notifying such owners aforesaid to open said road through their lands within ninety days after service of such notice; and if the person or persons so notified do not open such road within the time named in such notice, it shall be lawful and it is hereby made the duty of such county engineer on state and county roads and of such trustee on township roads and mail route roads to respectively enter upon said lands and open said roads; provided, if such notice be given between the first day of March and the first day of October, the notice shall designate the first day of January next as the time of opening such road. And the county engineer or township trustee respectively shall keep the same in repair, and remove or cause to be removed all obstructions that may be found therein; for which purpose the township trustee and the county engineer, are hereby authorized to enter upon any land near or adjoining such public road, to dig and carry away any gravel, sand, stone, clay, gypsum or any other road building material and to purchase any timber which may be necessary to improve or repair said road, and to enter upon any land adjoining or lying near to said road, to make such drains or ditches through the same as the county engineer or township trustee may deem necessary for the benefit of the

roads, doing as little damage to said lands as the nature of the case and the public good will permit; and the drains and ditches thus made shall be kept open if necessary by the township trustee or county engineer and shall not be obstructed by the owner or occupants of said land or by any other person, under the penalty of being fined not exceeding ten dollars for each offense, before any justice of the peace in the county. The owner of any gravel, sand, stone, clay, gypsum or any other road building material so taken, or the owner of the land through which ditches or drains may be made, as herein provided, or the owner of the crops thereon, shall be allowed a fair and reasonable compensation for the material so taken or for any injuries his lands or crops may sustain in consequence of the making of said drains or ditches; the amount of such compensation to be determined, allowed and paid by the highway commissioners in event such material is used upon a mail route or a township road, and determined, allowed and paid by the board of county commissioners of the county when such material is used upon a county or state road. Such claims shall be allowed and paid in the same manner as other ordinary claims against the county or township and the claimant shall have the same right of appeal as is now provided by law in other cases. (Id., sec. 11.)

67. Width of roads. That the width of all county roads shall be determined by the viewers at the time of establishing the same, and shall not be more than sixty nor less than forty feet; provided, that in cases where a growing hedge or other permanent improvement, the removal of which would cause too great an expense, the viewers may determine the width of the road at not less than thirty feet; and in cases where a growing hedge or permanent improvement on or near one side of the proposed road precludes the road being laid equally on both sides of the line, the viewers may establish all or any part of said road on the side of the section line not incumbered by such improvement. (Id., sec. 12.)

68. Outlet road where premises surrounded. That whenever the premises of any person in this state shall be so completely surrounded by adjoining lands, the property of other persons, as to be without access to any public highway, then such person may petition the board of county commissioners of the county in which such premises lie for a road, and one road only, through some portion of the adjoining lands, and the board, on presentation of such petition, shall proceed in accordance with the provisions of the section of the act to which this is amendatory to lay out such road, make returns of plats, and allow damages, if any should be held or allowed; provided, said road shall not exceed twenty-five feet in width and be laid out upon the quarter or quarter-quarter section lines when practicable. And the said road when so ordered by the board

of county commissioners shall be platted and recorded in the office of the register of deeds and shall become a public way under the same restrictions as other roads; and provided further, that the owner or owners, their grantees, successors or assigns, of the land specially benefited by the establishment of such public road, shall forthwith pay all expenses of establishing said road, including all damages, if any should be held or allowed and thereafter forever maintain and keep the same in repair and without any expense or liability to the township or other municipality in which such road is so laid out and established. (L. 1915, ch. 291, sec. 1.)

69. Avenues and streets in unincorporated towns declared highways. That all avenues, streets and alleys in unincorporated cities which are or may hereafter be laid out agreeably to law shall be and the same are hereby declared public highways; provided, that the municipal authorities of any incorporated city may make, ordain and enforce such ordinances concerning the sidewalks of the streets of such city as shall be deemed necessary to prevent such sidewalks from being used for the passage of horses, wagons or carriages, or hitching horses or other animals thereon. (L. 1911, ch. 248, sec. 14.)

70. Incorporated cities declared road districts. That each incorporated city of the second and third class shall constitute a separate road district, and the corporate authorities of such corporation shall have the power to appoint a street commissioner for such corporation, fix his term of office and compensation, and remove him from office for any misconduct, and shall require him to give bond with good security to the proper corporation for the faithful discharge of his duties, and for the safekeeping and proper use of any money that may come into his hands, and to disburse the same in the manner directed by the corporation; and such street commissioner shall do and perform all the duties in the same manner and under the same instructions and limitations as are provided for the government of township trustees in this act, except as herein otherwise provided; and the said corporate authorities of any such city are authorized and empowered to use the road tax provided for in this act in paving, macadamizing or grading the streets and alleys in such city in any manner provided by ordinance or resolution of any such corporation; provided, such tax shall be applied first to the most public streets and macadamized or graded, and any such city shall have the power to pass any by-law or ordinance necessary to carry out fully the provisions of this act. (Id., sec. 15.)

71. Impeded road on municipal line. That where a road is located on a county or municipal township or city line, and by reason of any impediment either natural or otherwise any portion of such road suffers a deflection from such line not exceeding forty rods parallel distance, then for the purpose of im-

provement such road shall be deemed to be wholly on such line. All expenses, either in money, material or labor, arising from the improvement of any portion of such road, shall be borne jointly by the counties or townships contiguous thereto, as the case may be. (Id., sec. 16.)

72. Reestablishment of road where record destroyed. In all cases where any of the road records of any county have been destroyed, and by reason of such destruction it is impossible to prove in court all the facts showing the regularity of the proceedings for the establishment of any such road, the introduction in evidence of any map, plat, atlas or diagram showing such road shall be *prima facie* evidence of the regularity of all the proceedings for the establishment of said road and of the opening of same and the declaring of the same to be a public highway by the board of county commissioners, upon proof that said map, plat, atlas or diagram was made prior to the destruction of said road records, or that the map, plat, atlas or diagram offered in evidence is a true and correct copy of one made prior to the destruction of said records. And the certificate of the county clerk under the seal of the county affixed to said map, plat, atlas or diagram, certifying the fact that said map, plat, atlas or diagram was made prior to the destruction of said road records, shall be taken as *prima facie* evidence of the time when the same was made. Said map, plat, atlas or diagram so certified shall become and be one of the records of the office of the county engineer of such county. (Id., sec. 17.)

73. Classification of roads. That the roads of every county in the state shall be classified according to their relative importance as "state roads," "county roads," "mail routes," and "township roads." The "state roads" shall be all roads laid out and defined by the state of Kansas. The "county roads" shall be all roads designated as such by the board of county commissioners of a county, who shall, as near as practicable, name as such county roads direct highways connecting cities and market centers whether both such cities or centers are within the county, or one is within and the other without such county. Free delivery mail routes shall be known as "mail routes," and all other public highways within a township are "township roads." All county and state roads shall be maintained at the expense of the county, and all mail routes and township roads where they do not coincide with county and state roads at the expense of the township in which they are situated; provided, that all roads designated as county roads under the provisions of chapter 198 of the Session Laws of 1909 and established as such at the time of taking effect of this act shall be and remain county roads and shall be maintained under the provisions of this act. (Id., sec. 18.)

74. Board of commissioners of highways in townships. That the township trustee, clerk and treasurer of each municipal township in this state shall constitute a board of commissioners of highways and township auditing board for their respective townships. All mail routes and township roads shall be under the control of said board of commissioners of highways. The township board shall appoint one or more road overseers for all mail routes and township roads in his township and such overseers shall receive a salary of two dollars and fifty cents per day for each day's actual service for as many days each year as said highway commissioners and county engineer may direct; provided, that no member of the township board shall be appointed or employed as a road overseer for any part of the township in which he serves. (L. 1915, ch. 290; sec. 1.)

75. Chairman and clerk. That the township trustee shall be the chairman, and the township clerk shall be the clerk of the highway commissioners. (L. 1911, ch. 248, sec. 20.)

76. Regular meetings. That the highway commissioners shall hold regular meetings at the office of the township clerk on the second Saturday after the election of the township officers and on the last Saturday of January, April, July and October in each year, and special meetings as occasion may require, at the call of the chairman or any two of the commissioners; and no official business shall be transacted except at a regular meeting or at a special meeting of which all the commissioners shall have had notice. (Id., sec. 21.)

77. Records of board. That the clerk of said board shall keep a record of all the official acts and proceedings of the board, in a well bound book, to be provided by the township for that purpose, which record shall be signed by the chairman and clerk. (Id., sec. 22.)

78. Powers and duties of commissioners. That the highway commissioners shall have charge of the mail routes, township roads and township bridges of their respective townships, and it shall be their duty to keep the same in repair, and to improve them so far as practicable. The work on roads shall be done timely, and in accordance with the best known methods of road-making—by proper grading and thorough drainage by tile or otherwise, as may be expedient, or by the application of gravel, rock or other material. The highway commissioners may employ a superintendent, outside their own body, to execute their orders and superintend contracts entered into by them, and they may let contracts and employ laborers, or they may entrust the same to the control of the county engineer; provided, that no contract the estimate cost of which is in excess of one hundred dollars shall be let under the provisions of this act except to the lowest responsible bidder nor until at

least ten days have elapsed after a publication once in a newspaper which shall have had a general circulation in the county for a period of at least twelve months preceding the time of such publication; provided further, that in no case shall the contract price exceed the estimate furnished by the highway commissioners; and that the sum total of the cost of outstanding contracts shall not exceed the amount raised by the tax levy authorized by law. (Id., sec. 23.)

79. Personal interest of officers prohibited. That in letting contracts, employing labor or in purchasing tools, machinery or materials, the highway commissioners shall not have, directly or indirectly, any personal pecuniary interest in connection therewith, except the interest of the township trustee in acting as road overseer under the provisions of this act; provided, that any person to whom any contract may hereafter be awarded shall file a bond with sureties approved by the highway commissioners in a penal sum equal to the amount at which the contract is let to said contractor, and that said contractor shall be paid upon estimates made from time to time as the work progresses and approved by the township trustee in a sum equal to seventy-five per cent of such estimates. The remaining twenty-five per cent to be retained in the township treasury until the work is finally completed and accepted. (Id., sec. 24.)

80. Compensation of commissioners. That the highway commissioners shall each receive for his services, the sum of two dollars per day for the time actually and necessarily spent by him in attending meetings of such highway commissioners. (Id., sec. 25.)

81. Reports of commissioners. That the township trustees shall make full itemized and sworn reports in duplicate, one copy of which shall be given to the highway commissioners and one to the county engineer, which report shall be made on the last Monday in April and October of each year, reporting all work done by them, days worked, giving dates of same, of all moneys expended by them, how expended, and all information said highway commissioners or county engineer may require; provided, that no township trustee shall incur any obligation not authorized by said highway commissioner. (Id., sec. 26.)

82. County engineer. That in all counties of the state, if in the judgment of the board of county commissioners the county surveyor be competent to superintend the county and state roads, such county surveyor may be the county engineer of public highways and bridges; but, if the board of county commissioners shall deem the county surveyor incompetent for such work, they may appoint some person other than the county surveyor, county engineer of public highways and bridges. The county engineer shall have general supervision of all the

county roads and bridge work in the county under the authority of the board of county commissioners, and of all mail routes and township roads under the direction of the township trustee and the highway commissioners in the various townships of the county. (Id., sec. 27.)

83. Duties of highway engineer. That it shall be the duty of the county engineer to be at his office at the county seat at least one day in each week, to be designated by him, and at such other times as the duties of his office shall require. He shall consult with the township trustee and the highway commissioners of the townships of the county and shall direct the manner of carrying on the repairs and improvements of the roads, and shall give instructions to officials as to the best methods and plans to be followed in making road repairs or improvements, having regard particularly to instructions in reference to the use of the road-drag and the times at which such drag shall be used. He shall keep himself informed by actual view of the work to be done upon the roads in his county, and shall make and deliver to the township trustees outline plans for such work, having special regard to the grading and drainage of the same. He shall study the conditions as to the character of the soil and topography of the land in the several townships of his county, and give directions to the officers having the direct supervision of the repairs and improvements of the highways in such townships as to the best methods to be followed in the construction and improvement of the roads. He shall collect information concerning the various deposits of stone, shale, clay, gravel, sand, and other road building materials, and shall investigate proper and most approved methods of using the same. He shall make maps of roads and highways in the different townships, and where there are no other records or the records are incomplete shall make maps and plats and file in his office, which when passed on and adopted by the board of county commissioners shall be the records of such road where there are no other records, and shall be additional and supplemental to the road records when the same are incomplete or imperfect. He shall have charge, under the authority of the board of county commissioners of the county, of the bridge work of the county, and if competent shall make the profile plans and specifications therefor and do all engineering work in connection therewith; provided, that whenever the county engineer or board of county commissioners of any county may desire the advice and scientific knowledge of the state engineer of roads and highways at the State Agricultural College at Manhattan, Kan., in relation to road building materials and their use, grading and draining roads, plans and specifications for bridges, culverts, concrete and metal construction and the best methods for caring for roads and highways, they may command such services; and it

is hereby made the duty of the state engineer and the State Agricultural College at Manhattan, Kan., to furnish all such advice and scientific knowledge without charge and expense to the county engineer or to the board of commissioners requiring the same, or to the county they represent. (Id., sec. 28.)

84. Compensation of county engineer. That the county engineer shall receive from the county as and for his fees for the services performed under the provisions of this act, the sum of four dollars per day for the time actually and necessarily employed in performing such services, which shall include the time employed in going from his office to and in returning from the place at which any work which he is required to do is to be performed, and for such other engineering work as he may be called upon by the board of county commissioners to do, and he shall receive for each plat, map, survey or report of survey the same fees that are now paid under the law to the county surveyor, but such fees and per diem shall not in any one year exceed the following amounts: In counties having a population of

	<i>Per annum.</i>
Less than 5,000, the sum of	\$400
More than 5,000 and not more than 10,000.....	500
More than 10,000 and not more than 15,000.....	600
More than 15,000 and not more than 20,000.....	700
More than 20,000 and not more than 25,000.....	800
More than 25,000 and not more than 30,000.....	1,000
More than 30,000	1,200

Provided, that in cases where the county surveyor shall be appointed county engineer, he shall not receive fees as both such county surveyor and county engineer for the same day's work; provided, that in all counties of more than 50,000 population where the county surveyor is appointed the county engineer he shall not receive for his services as county engineer more than he would receive as such county surveyor, in a sum not more than six hundred dollars. The county engineer shall receive in addition to the fees above provided for, his actual and necessary expenses when performing his duties outside the county seat made necessary by the provisions of this act. (L. 1915, ch. 226, sec. 1.)

85. Determination when work shall be done. That the county engineer and highway commissioners shall determine where and when the road work shall be done upon all mail routes and township roads, and the board of county commissioners and the county engineer shall perform the same service in regard to state and county roads. (L. 1911, ch. 248, sec. 30.)

86. Dragging roads. The highway commissioners shall determine what roads can be dragged and shall each year arrange with some person or persons to drag the graded roads in their township, at such times and upon such terms as the

highway commissioners may direct. They shall have the power to bind the township to pay a reasonable compensation for dragging such roads, but the amount paid shall not exceed \$1.00 per mile each time dragged, provided, the width to be dragged shall not be less than sixteen feet, and if the width to be dragged shall not be less than thirty feet, the amount paid shall not exceed \$1.50 per mile for each time the same shall be dragged, and there shall not be expended therefor more than fifteen dollars per mile for any one mile upon which work is done during any year. That the county engineers or surveyors with the approval of the board of county commissioners shall determine what state and county roads can be dragged and shall each year arrange with some person or persons to drag the state and county roads within the county at such times and upon such terms as the board of county commissioners and county engineer or surveyor may direct. The board of county commissioners shall pay a reasonable compensation for dragging such roads, but in no case shall the amount paid exceed that specified for the dragging of mail routes and township roads; provided, that all labor performed upon the roads either for dragging or for other purposes authorized by this act, except under contract upon which estimates are made from time to time, shall be paid by the county treasurer upon the voucher of the township trustee approved by the county commissioners in the case of mail routes and township roads; provided further, that any person employed to drag any road in a county or township, who shall make a false return to the proper officer of the number of miles dragged by him, or of the time at which such dragging was done, shall be deemed guilty of a misdemeanor and upon conviction thereof before a court of competent jurisdiction shall be fined in a sum not less than twenty-five dollars, nor more than fifty dollars; provided further, that any officer under the authority of this section who shall neglect or refuse to enforce the provisions of this section as relates to the dragging of roads or highways shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten dollars nor more than twenty-five dollars. (L. 1913, ch. 263, sec. 1.)

87. Taxation; collection and disbursement. That taxes assessed for the purpose of constructing and maintaining public roads and highways shall be paid in cash and collected as provided for in relation to other taxes. When so collected the county treasurer shall pay that proportion of the same which is to be used upon mail routes and township roads or upon city streets to the treasurer of the township or city from which said taxes are collected, to be used exclusively for such road purposes. (L. 1911, ch. 248, sec. 32.)

88. Levy of road tax. The county commissioners of each county may, at the time prescribed by law for levying county

taxes, levy a road tax for county and state roads and bridges of not more than one mill on the dollar on all taxable property in their respective counties and the same shall be collected as are other taxes, and when collected shall be expended upon the building, repair, maintenance and improvement of the state and county roads of such county by and under the direction of the county commissioners and the approval of the county engineer; provided, that if a majority of the electors voting at an election called for that purpose in such county shall vote to increase the tax levy herein, such board of county commissioners shall levy a tax for road purposes not to exceed three mills for such road purposes; provided, that the boards of county commissioners shall, within the limit prescribed of one mill on the dollar, keep all state and county roads within their respective counties in first class condition. (Id., sec. 33.)

89. Township levy. That for the purpose of carrying out the provisions of this act the highway commissioners shall recommend to the county commissioners of each county in this state, on or before the first day of August of each year, a levy of not more than three mills on the dollar on all the property in such township, and it shall be the duty of the county clerk to place such levy on the tax rolls of said county; provided, that at least seventy-five per cent of all moneys collected under the provisions of this section for road purposes from the taxable property in each township, shall be used to improve the rural route and township roads within such township. And it shall be the duty of the township trustee, highway commissioners and county engineer to see that this provision is complied with and that this percentage of the moneys collected shall be used, as nearly as practicable, upon such roads in the neighborhood of the property from which tax is raised; provided, that wherever there are in the township, railroads or factories valued at not less than fifty thousand dollars, that the taxes derived from said railroad and factories for road purposes, shall be paid into the general fund of the township to be used for the benefit of the whole township without special reference to the location of said railroad or factory or factories; provided further, that the highway commissioners of any township in this state which has outstanding at the time this law goes into effect, unpaid warrants issued for the improvement of roads, may discharge, and are hereby authorized so to do if they deem best the indebtedness represented by such warrants out of the tax raised under the provisions of this section. (Id., sec. 34.)

90. Township road funds. That the township treasurers shall receive from the county treasurers their proportion of the road taxes under the provisions of this act, and the same, under the direction of the highway commissioners shall be

appropriated to the building of bridges and the repairing of roads within the respective townships, and the purchase of the requisite number of tools and sufficient machinery for the construction and repairing of roads. (Id., sec. 35.)

91. Poll tax; notice. That all male persons between twenty-one and fifty years of age who have resided thirty days in this state and who are not a public charge shall be liable each year to pay the sum of three dollars to the township trustee or to the proper officer of the city in which such person lives, who shall receipt for the same and account therefor to the treasurer of the township or city and the same shall be expended on the public roads within the township or city in which such persons live. And all moneys so received by such treasurer shall be paid to the township trustee or proper officer of the city in which the person lives, to be expended as above provided. Any city having a volunteer fire department may have the privilege of exempting the members of such department from paying the tax imposed by this section; provided, that if any such person shall fail to pay such tax within thirty days after the receipt of a notice from the township trustee, or the proper officer of the city, that said tax is due, the person so failing shall upon conviction thereof be adjudged guilty of a misdemeanor and fined in the sum of five dollars. And it is hereby made the duty of the township trustee or proper officer of the city to give such notice to every such person on or before the first day of September of each year; provided, that nothing herein contained shall be construed to prevent the township trustee from giving the person who pays such tax the preference by employing him to labor upon the highway, to the extent of at least three dollars annually, if such person is willing to so labor at a daily wage for himself of one dollar and fifty cents and for himself and team of three dollars, at such times and upon such portion of the road as the township trustee may direct. (Id., sec. 36.)

92. Guide-boards and signposts. That each township trustee within his township shall erect and keep up at the expense of the township, posts and guide-boards at the forks of every state and county road, containing an inscription in legible letters, directing the way and naming the distance to such cities as are situated on said road; and any township trustee failing so to do in a reasonable time, not to exceed six months, [shall upon conviction thereof before any justice of the] peace, of the proper county be fined in any sum not exceeding five dollars, with costs of suit; and such fine when collected shall be paid into the county treasury for school purposes. (Id., sec. 37.)

93. Gates across public roads. That the county commissioners of any county are empowered, where lands are used

largely as pasture lands, whenever in their judgment the convenience of the traveling public will not be materially affected thereby, to authorize the construction and maintenance of gates across public roads and highways in part of such counties for the use and convenience of the public. Such gates shall be either gates swinging on hinges or gates that may be opened by the driver of a vehicle without alighting therefrom or the ordinary wire gate as the county commissioners may require. If a swinging gate, then the owner of the land shall be required to place a hitching post on each side of such gate at a sufficient distance from such gate so that the driver alighting from the vehicle may hitch while opening or closing such gate. The order herein authorized shall be entered on the journal of the board of county commissioners; the said board of commissioners may, in its discretion, order and direct that such gate or gates shall remain open during certain portions of the year, the time to be fixed by said board, or in its discretion and where there is a reasonable necessity therefor, and the convenience of the traveling public would not be materially affected thereby, it may order such gate or gates to be kept closed during the entire year. (L. 1915, ch. 289, sec. 1.)

94. Leaving gates open. That any person who shall injure or destroy, at any time, or who shall leave open any gate constructed under the provisions of section 38 of this act, contrary to the intent and purpose of said order, and at a time when by the terms of said order such gate or gates are to remain closed, shall be guilty of a misdemeanor and on conviction thereof, shall be fined in a sum not exceeding \$100.00 and costs of prosecution. (Id., sec. 2.)

95. Removing weeds and obstructions. That it shall be the duty of the township trustee of the several townships of this state to remove or cause to be removed all obstructions and incumbrances such a brush, hedge trimmings, rock and debris, of whatever character, and at least once each year, at such times as the county commissioners may direct between the 1st day of July and the 15th day of August, from all the public roads and highways within his township, remove or cause to be removed all cockle-burrs, Rocky Mountain sand-burrs, burdocks, sunflower, Canada thistles, Johnson grass and such other obnoxious weeds as may be injurious to the best interests of the farming community, and he shall charge to and collect from the county all work done by him under the provisions of this section upon county and state roads, and the county commissioners shall allow and pay the same as in other claims for service rendered the county. Any township trustee failing or refusing to enforce the provisions of this section shall upon conviction be fined not less than twenty-five dollars and not more than one hundred dollars. (L. 1911, ch. 248, sec. 40.)

96. Trustee keep road open. That if at any time any highway shall be obstructed or become impassable, or any bridge shall be impaired so as to be unsafe, it shall be the duty of the township trustee of the township in which such obstruction, impassable road or impaired bridge may be situated, to cause such obstruction to be removed or such road or bridge to be repaired forthwith. (Id., sec. 41.)

97. Ditches. That no township trustee in this state shall make or cause to be made any ditch more than two feet deep without the consent and approval of the county engineer; and in any case where a ditch one foot deep or more shall be made in front of any residence property, the township trustee shall construct and maintain a bridge or culvert at the usual entrance connecting said residence property with the public highway, so as to make a good and substantial crossing over any ditch so made. (Id., sec. 42.)

98. Trustee maintain high-water mark. That each township trustee within his township shall erect and maintain, at the expense of the township, posts or boards at the fords of every river or creek that in high water becomes impassable, which posts shall be set at or near low-water mark, on which shall be inscribed in legible letters, or plain figures, the depth of water at low water, together with a scale of feet showing the number of feet above low-water mark to the height to which said stream is known to have ever risen. (Id., sec. 43.)

99. Notice on bridge. That it shall be the duty of the township trustee of the several townships in each county of this state to cause to be put up and kept in good repair at each end of each and every bridge erected by the county or township upon any highway in their respective townships, of a span of not less than twenty-five feet, a notice which shall be printed in conspicuous letters, with the following words: "Five dollars fine for riding or driving over this bridge faster than a walk, or for driving an automobile faster than ten miles an hour." (Id., sec. 44.)

100. Engines crossing bridges; planks to be used. That all persons owning, controlling, operating or managing steam or gasoline threshing-machines, saw-mills, traction engines or transfer wagons or vehicles of any kind used for the transportation or distribution of oil or other merchandise or commodity and moving the same over the public highway are required to lay down planks not less than one foot wide, three inches in thickness, and of sufficient length, on the floor of all bridges and culverts situated on the public highway, while crossing the same, for the wheels of said engine of any kind to run on while crossing such bridge or culvert; provided, that this section shall not apply to any machine or engine not exceeding three tons in weight; provided further, that no person,

firm or corporation seeking to recover damages against any city, township or county under the provisions of this section, shall secure a judgment therein, unless the jury shall find that such person, firm or corporation had before receiving the injury complained of, complied with the provisions of this section. (Id., sec. 45.)

101. Steam engines on road. That all persons owning, controlling, operating or managing steam traction engines of any kind, in moving the same along the public highways are required on meeting any person or persons in vehicles of any kind drawn by horses, mules or other animals, to turn to the right, giving as much of the public highway as possible, and then shut off the steam and come to a halt at the distance of one hundred yards from the person or persons so met, and to remain with the steam down and halted until said person or persons shall have passed at a distance of one hundred yards from the place of halting on said highway; provided, that nothing in this section shall prevent any one operating such engine drawing the same by team or teams without making the halt or halts above referred to. (Id., sec. 46.)

102. Misdemeanor. That any person or persons violating the provisions of sections 45 and 46 shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined in a sum of not less than five dollars nor more than two hundred dollars for each offense. (Id., sec. 47.)

103. Live stock crossing bridge. That it shall be unlawful for any person or persons to ride or drive any horse, mule, ass or ox over any such bridge in this state faster than a walk, or drive more than fifty head of cattle on such bridge at one time; and any person who shall so unlawfully ride or drive such horse, mule, ass or ox over such bridge, or drive over the same more than fifty head of cattle at any one time, upon conviction thereof shall pay a fine of five dollars and cost of suit. (Id., sec. 48.)

104. Plowing up highways. That it shall be unlawful for any person or persons to hereafter plow up the public highways for the purpose of scouring plows, or for any other purpose, except it be for the improvement or maintenance of the highways under the direction of the township trustee or to remove from any public highway any dirt, sand, rock or gravel; and any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction before any court having competent jurisdiction shall be fined for each and every offense under this act in a sum not exceeding ten dollars nor less than three dollars, with costs of suit. (Id., sec. 49.)

105. Sidewalk along highway. That it shall be lawful for the owner of any real estate located within one mile of the

corporate limits of any city or town, and said real estate abutting upon any public highway, to establish, maintain and use a foot-path or sidewalk six feet in width in and along the outer edge of said highway and immediately adjoining said premises. Said owner may set a post or posts not less than four feet in height in said highway, and not more than six feet from the outer edge thereof, to designate the limits of said path or walk; said posts to be set not to exceed fifty feet apart, and such post or posts shall be sufficient notice of the intention of such owner to establish and maintain such path or walk, and such post or posts shall not be deemed an obstruction of, in or to such highway. (Id., sec. 50.)

106. Damaging sidewalk misdemeanor. That any person removing or intentionally injuring any such post or posts, or who shall ride or drive over any portion of said path or walk so reserved, shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed twenty-five dollars. (Id., sec. 51.)

107. Damaging markers or drains; punishment. That if any person shall willfully demolish, throw down, alter or deface any milestone or guideboard on or at the forks of any roads, or shall willfully obstruct any such road drain or drains, by any means or in any manner whatever, every person so offending shall on conviction be adjudged guilty of a misdemeanor, and be punished by imprisonment in the county jail not exceeding three months, or by fine of not less than twenty nor more than one hundred dollars, or by both such fine and imprisonment, which fine shall be paid by the officer receiving the same into the county treasury for school purposes, and every person obstructing any such road as aforesaid shall also be liable in a civil action for all damages sustained by any person who has in any manner whatever been damaged by reason of such obstruction. (Id., sec. 52.)

108. Special acts not repealed. That no provisions of this act shall be construed to repeal or supersede any special act now in force in any county in this state. (Id., sec. 53.)

109. County engineer; duties defined. That any county in this state operating under a special act and which already has a county engineer or road commissioner, said engineer or commissioner shall perform all of the duties prescribed in this act together with his duties as set forth in such special act, but shall not be entitled to the compensation provided in this act, but his salary shall be regulated in compliance with such special act. (Id., sec. 54.)

IMPROVEMENT OF COUNTY ROADS:

110. Petition for improvement of road. Wherever sixty per cent of the landowners along the lines of any regularly laid out road, who shall own at least fifty per cent of the land to be

taxed, within such distance as shall be stated in the petition hereinafter referred to, or on each side thereof, or within a radius of the distance prescribed in such petition on each side of such road, from any point thereof, and between the terminal points mentioned in such petition, shall petition the board of county commissioners of the county in which such road is located for the improvement of such road, or any part thereof, said county commissioners shall cause said road or part of road thereof to be improved as prayed for in said petition and as hereafter provided; provided, however, that before such improvements as prayed for in such petition are ordered by the county commissioners they shall, by order of the board, find and declare it to be of public utility. (Sec. 7359, G. S. 1909.)

111. Contents of petition. Such petition shall state: First, the name of the road which or any part of which is to be improved; second, the points between which said improvements are to be made; third, the kind of improvements prayed for; fourth, the number of annual assessments to be made in payment thereof, not exceeding ten. (Sec. 7360, G. S. 1909.)

112. Survey and estimate. Upon the filing of such petition the said county board shall cause an accurate survey of such road, or any part thereof, to be made by the county surveyor, or by some surveyor or engineer to be employed by them for that purpose, and a careful estimate of the cost of such improvement, with profile and specifications thereof, together with a map showing the several tracts of land within such distance as shall be stated in the petition, and cause the same to be filed in the office of the county clerk of the county. (Sec. 7361, G. S. 1909.)

113. Contracts for work. The county commissioners shall take charge of and conduct the improvement of such road in conformity with the profile and specifications so filed as aforesaid, and shall be authorized and empowered to make contracts for doing the work required in making such improvements, and in payment for any work so done or for any material furnished for the same said commissioners shall issue special-improvement bonds, payable within the time or times mentioned in the petition of such road, bearing interest at the rate of six per cent or less per annum. Such contracts shall be let in all cases to the lowest responsible bidder, the county commissioners reserving the right to reject any or all bids. Each bidder must accompany his bid with a certified check for one thousand dollars, payable to chairman of the board of county commissioners as a guarantee that if said work is awarded him he will enter into a contract with said board of county commissioners for the same; and if such bidder so awarded such contract shall fail to enter into or fulfill the same, the said one thousand dollars so deposited as aforesaid shall become and be the property of said county as its liquidated damages in the premises, and

same shall become a portion of the general revenue fund of the county. Notice shall be published for one month previous to letting said contracts, in the official county paper. Each contractor shall give a bond in double the amount of the contract price, securing to the county in which such work is done the faithful performance of such contracts; provided, that no such commissioner or employee of county shall be in any wise interested in such contract or work done thereunder. (Sec. 7362, G. S. 1909.)

114. Record; superintendent. The said county commissioners shall keep and file with the county clerk a complete record of their proceedings hereunder, and shall appoint a qualified person as superintendent to oversee and direct the work done hereunder, who shall receive as compensation therefor a sum not exceeding three dollars per day for the time actually employed in overseeing such work, such claim or account to be presented, duly verified under oath, as other claims against the county, and shall be paid from the general fund of the county. (Sec. 7363, G. S. 1909.)

115. Apportionment of cost. Upon the completion of any improvement hereunder, said county commissioners shall meet at the office of the county clerk and apportion three-fourths of the costs of said road among the several tracts of land, designated in the map, filed as aforesaid, according to the benefits accruing to the real property and improvements within the limits shown by said map. In making such apportionment of cost the commissioners shall give credit thereon for damages occasioned to the property through which said improvements are made; the remaining one-fourth of such cost shall be charged to the township, or townships in which such road improvements are made, which shall be raised in the manner now provided by law, for raising taxes for all township purposes. When said appraisement is returned, the county commissioners shall appoint a time for holding a special session to hear any complaint that may be made as to the apportionment of costs of such special improvements, and at such special session the county commissioners may alter or change the appraisement of the tracts of land where the owner or agent feels aggrieved. (L. 1911, ch. 249, sec. 1.)

116. Donations. The county commissioners may receive subscriptions and donations in money and real or personal property which shall be applied in the construction or improvement of said road, and it shall be their duty to provide means in any manner they deem best for the partial payment of road construction or improvements as the work progresses, but in no case shall such payments be greater than seventy per cent of the engineer's estimated cost of the work finished. (Id., sec. 2.)

117. Collection of assessment. Upon the completion of such apportionment of the cost of the improvement, aforesaid, the county clerk shall enter the same upon the duplicate tax rolls of the county, and the taxes shall be collected as other taxes; provided, that the county clerk shall mail a written or printed notice to the owner or owners of any tract of land liable to assessments for improvements, provided by this act; thirty days or more before the disposition of the bonds issued for such improvements. The notices to set forth the amount of assessments, and upon the payment of the same, the property is relieved of further liability for such improvements. (Id., sec. 3.)

118. Repairs by township board. The township board of each township, through which such improved road runs, are empowered to maintain and keep in repair such improved road. (Id., sec. 4.)

119. Part paid from general fund. Whenever in the judgment of the county commissioners any part of said road is of general importance to the county, or if by reason of sand, creeks, or other reasons which would cause an unusual expense, the commissioners may make an order to that effect and pay for such part of the road out of the general fund of the county. (Sec. 7365, G. S. 1909.)

120. Bridges and culverts. All necessary bridges and culverts costing more than two hundred dollars along the line of any such road shall be built and made at the expense of the county and paid for from the general fund or the bridge fund of the county, and the expenses of surveying, locating and mapping such road shall be paid by the county, and the fee therefor shall be the same as fixed for other county work; provided, that this act shall not be construed to supersede or repeal any special act heretofore passed and under which any county is now operating or building roads; provided further, that when such petition is filed with the county commissioners no signer thereon shall be permitted to withdraw his name therefrom. (Sec. 7368, G. S. 1909.)

121. When act applicable. The provisions of this act shall not apply to the construction or improvement of roads costing less than five hundred dollars per mile. (Sec. 7369, G. S. 1909.)

TOWNSHIPS; CITY ROAD DISTRICTS; GENERAL PROVISIONS.

122. Township road tax. The said township board of each township, on the last Saturday in July of each year, shall levy a tax in an amount not to exceed three-quarters of a mill on the dollar of the taxable property, for the purpose of creating a fund with which to improve the roads and highways. Such taxes shall be collected by the county treasurer and the money so collected shall be paid by said county treasurer to the town-

ship treasurer. The money so collected shall be kept separate from other township funds and shall be expended under the order and direction of the board of commissioners of highways of the various townships. (Sec. 9424, G. S. 1909.)

123. Obstructions. The township trustee may remove obstructions from the highways in cases where the road overseers shall refuse or fail to do so; and the trustee shall in such cases have all the power of road overseers in calling out the inhabitants to perform the work necessary to remove such obstructions. (Sec. 9590, G. S. 1909.)

124. Running horse on public road. If any person shall run or cause to be run upon any public road or highway in common use in this state, any horse or horses, so as to interrupt travelers thereon, or put to fright the horses or other animals by them rode or driven, he shall upon conviction be adjudged guilty of a misdemeanor, and punished by fine not less than five nor more than twenty dollars. (Sec. 2769, G. S. 1909.)

125. Violations of road laws. The township trustee shall prosecute in the name of his township all violations of the different road laws, or any provisions thereof; and in such prosecution it shall be the duty of the county attorney to act on behalf of the township. (Sec. 9589, G. S. 1909.)

126. Cities constituted road district. Each incorporated city of the second and third class shall constitute a separate road district, and the corporate authorities of such corporation shall have the power to appoint a road overseer for such corporation, fix his term of office and compensation, and remove him from office for any misconduct, and shall require him to give bond with good security to the proper corporation for the faithful discharge of his duties and for the safe-keeping of all property and proper use of any money that may come into his hands, and to disburse the same in the manner directed by the corporation; and such overseer shall do and perform all the duties in the same manner and under the same instructions and limitations as are provided for the government of overseers in this act, except as herein otherwise provided; and the said corporate authorities of any such city are authorized and empowered to use the two days' work provided for by this act, or the money paid by persons in the discharge of the same, in paving, macadamizing or grading the streets and alleys in such city in any manner provided by ordinance or resolution of any such corporation; provided, such work or money shall be applied first to the most public streets not macadamized or graded; and any such city shall have the power to pass any by-law or ordinance necessary to carry out fully the provisions of this act. (L. 1911, ch. 251, sec. 1.)

127. State-line roads. The board of county commissioners of counties along the state line may establish a road twenty

feet wide in the state of Kansas along such state line in the manner provided by law for the laying out of other public highways; provided, the adjacent state shall make provision for the establishing of its proportionate share of such road. (L. 1915, ch. 292, sec. 1.)

128. Township-line road; duties of trustees. Where any public road is located as by law provided, upon the dividing line between two townships, it shall be the duty of the township trustees of such townships between which such road may be located, to divide the work of maintaining and repairing said road into two parts or sections as nearly equal regarding the work of maintaining and repairing as may be practical. One township taking one end and the other township the other, and it shall be the duty of the township trustee of each township to supervise and provide for the maintenance and repair of both sides of the road, so far as the part or section of such road assigned to that township shall extend. (L. 1913, ch. 265, sec. 1.)

129. County commissioners decide disagreements. That in case the two township trustees can not agree upon a division of such road as provided for in section 1 of this act, then it shall be the duty of the board of county commissioners of the county (or the boards of the two counties—in case such road shall be upon a county line) to designate how such division shall be made. (Id., sec. 2.)

130. Certain state roads made township roads. That all state roads located under authority of chapter 113 of the Laws of 1874 be and are now declared to be township roads within the meaning of section 18 of chapter 248 of the Laws of 1911, excepting such portions of said state roads as may hereafter be designated as county roads by the county commissioners of the counties wherein such portions are located. (L. 1913, ch. 266, sec. 1.)

131. Authority of county commissioners. The boards of county commissioners of the several counties in which said state roads are located shall have the same power to vacate and alter the same, and any portions of the same, as they have to vacate and alter other public highways. (Id., sec. 2.)

REGISTRATION OF NAME, EMBLEM AND COLOR DESIGN OF HIGHWAYS.

132. Marking highways. Any association or corporation organized to promote the improvement and marking of any intercounty-seat, cross-state, interstate, or international highway, may by making application to the secretary of state, register in the office of secretary of state the name, emblem, and color combination or design, used in marking said route, together with a map showing the location thereof. (L. 1915, ch. 287, sec. 1.)

133. Application; fees. The application shall be in the form prescribed by the secretary of state, and shall be duly acknowledged by the president and secretary of the association or corporation, and be accompanied by a fee of five dollars (\$5.00) which fee shall be used to pay the expenses incident to the administration of this law. (Id., sec. 2.)

134. Emblem or color scheme; prior right. In any case where any association or corporation has heretofore adopted a name, emblem and color scheme, and caused the same to be used along an established line of travel, such association or corporation shall have the prior right thereto. (Id., sec. 3.)

135. Secretary of state determine rights; issue certificate. The secretary of state shall have power to determine priority or right to the use of the name, emblem, color combination and design. If the secretary of state shall after investigation adjudge the application meritorious and the route to be worthy of the protection of this act, he shall issue to the association or corporation a certificate, which shall designate the name, emblem, color combination and designs authorized to be used in marking said highway, together with a map showing the location thereof, one copy of which shall be filed in the office of the secretary of state. It shall be unlawful for any person, association or corporation to use the name, color combination, emblem or design so authorized on any other road. (Id., sec. 4.)

136. Signs and marks protected. It shall be unlawful for any person, or persons, to injure, destroy, or remove the markings, emblems, and designs, so authorized erected along the highway to which they belong, or to erect any false or misleading signs, at or near the intersection of any road connected therewith, and upon conviction thereof, shall be adjudged guilty of a misdemeanor and fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00). (Id., sec. 5.)

137. Maintenance of markings. When any highway has been established and registered for a period of five years or more, it shall be the duty of the county or township board having jurisdiction of said road to thereafter maintain the markings and emblems designating said highway. (Id., sec. 6.)

138. Change of name or location. By and with the consent of the secretary of state, said association or corporation may modify or change the location thereof and cause the signs and emblems to be changed from the old to the new location. (Id., sec. 7.)

FIXING HOURS WHICH SHALL CONSTITUTE A DAY'S WORK.

139. Eight-hour day on public work. That eight hours shall constitute a day's work for all laborers, workmen, mechanics or other persons now employed or who may hereafter

be employed by or on behalf of the state of Kansas, or by or on behalf of any county, city, township or other municipality of said state, except in cases of extraordinary emergency, which may arise in time of war or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life; provided, that in all such cases the laborers, workmen, mechanics or other persons so employed and working to exceed eight hours per calendar day shall be paid on the basis of eight hours constituting a day's work; provided, further, that not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, and other persons so employed by or on behalf of the state of Kansas, or any county, city, township or other municipality of said state. And laborers, workmen, mechanics and other persons employed by contractors or subcontractors in the execution of any contract or contracts within the state of Kansas, or within any county, city, township or other municipality thereof, shall be deemed to be employed by or on behalf of the state of Kansas, or of such county, city, township or other municipality thereof; provided, further, that any cities of the second or third class owning or operating municipal light and water plants be and the same are hereby exempted from the provisions of this act. (L. 1913, ch. 220, sec. 1.)

140. Contracts hereafter made. That all contracts hereafter made by or on behalf of the state of Kansas, or by or on behalf of any county, city, township, or other municipality of said state, with any corporation, person or persons, for the performance of any work or the furnishing of any material manufactured within the state of Kansas, shall be deemed and considered as made upon the basis of eight hours constituting a day's work; and it shall be unlawful for any such corporation, person or persons to require or permit any laborer, workman, mechanic or other person to work more than eight hours per calendar day in doing such work or in furnishing or manufacturing such material, except in the cases and upon the conditions provided in section 1 of this act. (Sec. 4644, G. S. 1909.)

141. Penalty. That any officer of the state of Kansas, or of any county, city, township or municipality of said state, or any person acting under or for such officer, or any contractor with the state of Kansas, or any county, city, township or other municipality thereof, or other person violating any of the provisions of this act, shall for each offense be punished by a fine of not less than \$50 nor more than \$1000, or by imprisonment not more than six months, or both fine and imprisonment, in the discretion of the court. (Sec. 4645, G. S. 1909.)

WORKING CONVICTS AND PRISONERS ON ROADS AND HIGHWAYS.

142. Private labor by convicts prohibited. It shall be unlawful to allow any convict in the penitentiary to perform any labor for private citizens outside of the penitentiary grounds for hire or otherwise, and it shall be the duty of the warden to employ the surplus convict labor in extending and repairing the state and county roads, and upon other work exclusively for the benefit of the state. (Sec. 8604, G. S. 1909.)

143. Permit convict labor on roads. It shall be unlawful to allow any convict in the penitentiary to perform any labor for private citizens outside of the penitentiary grounds for hire or otherwise, it shall be unlawful for the warden to permit any convict to be at large without an attendant officer in the town of Lansing, or in any other place where they shall be associated with children, and it shall be the duty of the warden to employ the surplus convict labor extending and repairing the state and county roads, and upon other work exclusively for the benefit of the state. (L. 1915, ch. 58, sec. 3.)

144. Working convicts on highways. Upon the written request of the board of county commissioners of any county or of the mayor and councilmen or mayor and commissioners of any city of the state of Kansas, the warden of the Kansas State Penitentiary may detail such convicts as in his judgment shall seem proper, not to exceed the number specified in said written request, to work upon such public roads and highways of such county or streets and alleys of any city or incorporated town within such county, as shall be designated in said written request of said board of county commissioners; provided, that such county shall pay all additional expenses of guarding said convicts while working upon said public roads and highways within such county, and shall furnish all tools and materials necessary in the performance of said work; and provided, that when said work is done within the limits of any city or incorporated town within such county or city or incorporated town where said work shall be done, shall likewise pay all additional expenses of guarding such convicts while performing said work, and shall furnish all necessary material used in said work; and provided, that the board of county commissioners of any county, or the proper municipal authorities in any city or incorporated town, shall pay to the warden of the state penitentiary a sum of one dollar per day for each convict so furnished by said warden to said authorities; and provided, that the earnings of such convicts, after deducting sufficient thereof to pay and satisfy the cost of maintenance and retention, shall be given to the family of such convict, or dependents if there be any; if there be none, the sums accumulated shall be paid to such convict upon his discharge from the penitentiary. (L. 1913, ch. 219, sec. 1.)

145. Dangerous convicts not to work on roads. It shall not be lawful for the warden to detail on public road work any convict whom he believes to be dangerous to himself or to his fellows or to the public, nor shall such a number of convicts be detailed to this work as will impair the efficiency of any industrial undertaking now maintained at the state penitentiary as a matter of prison discipline and penal servitude. (Id., sec. 2.)

146. Not to replace skilled labor. Said convicts, when employed under the provisions of section one of this act, shall not be used for the purpose of building any bridge or structure of like character, which requires the employment of skilled labor. (Id., sec. 3.)

147. Allowance on time of convicts. The board of directors of the penitentiary are hereby empowered to adopt a special rule applicable solely to convicts employed upon the public work herein authorized and contemplated whereby convicts so employed shall be granted one additional day as good time allowance out of every three while so engaged on the public work herein authorized and contemplated, conditional upon their good behavior and cheerful compliance with all rules that may be made by the said board or said superintendent for the management and control of convicts so employed, which additional good time allowance shall be in addition to good time allowance otherwise provided by law. (Id., sec. 4.)

148. County stone-yard. That the board of county commissioners may establish a county stone-yard, and work male prisoners mentioned in the first section of this act at breaking stone for use in macadamizing streets and roads, under such rules as they may from time to time ordain and establish. (Sec. 6938, G. S. 1909.)

149. Stone sold, etc. That the board of county commissioners of the proper county are authorized to sell or dispose of such stone as they may have had broken, on such terms as they may deem advisable, or, in case they can not sell the same, to use the same for the improvement of some designated road or street; and on making a sale of such stone, the money arising therefrom shall be used to pay for stone delivered at the county stone-yard, and the remainder shall be applied to the payment of the fine and costs standing against the person breaking the same. (Sec. 6939, G. S. 1909.)

150. Work on highway. In case when a prisoner shall so desire, and shall enter an undertaking to the proper county with good and sufficient sureties, to be approved by the county clerk, that he will do a given or specified amount of work on some highway designated by the chairman of the board of county commissioners of the proper county, and in a specified time, in full satisfaction of the said fine and costs charged

against the said prisoner, the chairman of the board of county commissioners of the proper county is authorized to accept such undertaking, and direct the jailer to allow such prisoner to leave said jail for the purpose of doing the specified work. Said work may be done under the direction and control of some road overseer designated by the chairman of the board of county commissioners of the proper county; and when said work is done or performed in the manner and in the time designated in said undertaking, the chairman of the board of county commissioners shall so certify on said undertaking, and said prisoner shall then be discharged from all liability for the fine and costs for which he was imprisoned; provided, for any good and sufficient reason the chairman of the board of county commissioners may extend the time for doing the work specified in such undertaking. (Sec. 6940, G. S. 1909.)

151. Duty of county attorney. In case the prisoner entering into the undertaking shall fail or neglect to do or perform the work or labor specified in the undertaking so given by him, the county attorney shall at once proceed to collect the amount specified in such undertaking, and no defense except payment or the death of the principal in the undertaking during the time in which such principal was to do such work shall be allowed. (Sec. 6941, G. S. 1909.)

152. Allowance. Prisoners shall be allowed one dollar for each day's work performed by them in good faith under the provisions of this act, or, if the prisoner prefer, the board of county commissioners may allow such prisoner a specified sum per cubic yard for breaking stone. The amount so earned by the day or by the cubic yard, when the same shall amount to the sum of the fine and costs, the same shall be deemed a full satisfaction of the fine and costs in the action for which the said prisoner was committed to the jail of the county. (Sec. 6942, G. S. 1909.)

153. Costs. The county shall not be liable for any costs by reason of the provisions of this act otherwise than is herein provided, nor shall this act be construed as limiting the board of county commissioners of any county in their right to discharge any person from the jail in the manner as now provided by law. (Sec. 6943, G. S. 1909.)

ROAD BUILDING MACHINERY FOR COUNTIES.

154. Counties purchase rock crushers and machinery. The board of county commissioners of the several counties of the state of Kansas may, on petition of not less than thirty-five per cent of the resident taxpayers of the county, and are hereby empowered to appropriate from the general fund of the respective counties an amount not to exceed the sum of thirty-five hundred dollars for the purpose of purchasing rock crushers and rollers and other road making machinery, to be

used for the purpose of preparing material for the construction, repair and maintenance of the public roads in their respective counties, and for the purpose of preparing such material for the construction and repair of bridges and culverts as may to them seem advisable; provided, however, that the aforesaid appropriation of money shall not be made unless petitioned for by not less than thirty-five per cent of the resident taxpayers of such county; providing this act shall not apply to counties now owning a rock crusher. (L. 1913, ch. 264, sec. 1.)

155. Records of use of road machinery. The above mentioned machinery when so purchased shall remain the property of the county and is to be operated under the management of a competent person to be selected by the said board of county commissioners, said operator when so named, shall be able to and shall keep a record of cost of procuring and preparing such material and the cost of applying and using such material so prepared and applied to the roads and bridges and culverts; such record shall also include the cost of power employed, and shall be filed with the county clerk and to become a part of the public record. (Id., sec. 2.)

156. Use by townships. Said machinery so purchased shall be furnished to the residents of the counties, and to the respective township boards of such counties free of charge upon their making application in writing to the board of county commissioners for the use of the same. Said application to be filed with the clerk of the county, and such requests shall be filed in due order. Provided always, that the persons or township boards having the use of said machinery for the purposes set forth in section 1, shall pay the reasonable per diem charges of the person designated by the county commissioners to have charge of the aforesaid machinery, whose compensation shall be fixed by the board of county commissioners and shall in no event exceed the sum of four dollars per day; provided further, that the persons or township boards employing such machinery as above provided shall supply at their own cost and expense the necessary steam or other power to operate such machinery. (Id., sec. 3.)

CORNER STONES, MONUMENTS AND MILE POSTS.

157. Protecting corner-stone or monument. That it shall be the duty of each township trustee, when he shall find or be notified that, by reason of the wearing, washing, or blowing of the land below its usual surface, a corner-stone or monument is in danger of being displaced or destroyed, to at once fill in around such corner-stone or monument in such manner as to make it secure; and further, when a corner-stone or monument projects above the usual grade of a road-bed enough to be in danger of being displaced by travel, by road graders, or

by other means, or if by reason of intended cuts or fills the corner-stone or monument is likely to be displaced or destroyed or covered to a depth exceeding two feet, and such corner-stone or monument has not at least two duly recorded witness monuments, he shall at once notify the county surveyor by written notice, served in person or by mail, of such fact, together with the location of such corner-stone or monument. (Sec. 2279, G. S. 1909.)

158. Neglect of township trustee. If such township trustee shall neglect or refuse to comply with the above section, within one week from the time it comes to his knowledge, after notice has been served that such corner-stone or monument is in danger of being displaced or destroyed, or if he fails to give notice as above provided at least one week before such cut or fill is made, he shall be liable to a fine of not less than five nor more than ten dollars, together with the costs. (Sec. 2280, G. S. 1909.)

159. Duty of surveyor. The surveyor shall upon receipt of such notice, without unnecessary delay, proceed to reset such corner-stone or monument and set at least two witness monuments, in a manner calculated to permanently preserve and mark the proper location of said corner-stone or monument, and shall record such proceedings, together with a substantial description of the corner-stone or monument, and the witness monuments, with distances and courses to same, in the manner provided by the law of permanent surveys. It shall not be necessary to notify any interested parties. The political township in which such corner-stone or monument is situated shall pay costs, unless such corner-stone or monument is situated on the boundary-line between political townships, in which case the costs shall be divided equally. (Sec. 2281, G. S. 1909.)

160. Milestones. Every person who shall willfully or maliciously break, or destroy, or remove any milepost, milestone, or any guide-board, erected by authority of law on any public highway or road, or shall willfully and maliciously deface or alter any inscription on any such post, stone or board, shall be deemed guilty of a misdemeanor. (Sec. 2601, G. S. 1909.)

RAILWAY CROSSINGS; HEDGES AND SIGN BOARDS; PROTECTION OF PUBLIC TRAVEL.

161. Railway crossings on highways. It is hereby made the duty of every person or corporation owning or operating any railroad crossed by a public highway to make and keep in good repair, good and sufficient crossings for such road over their tracks, including all the grading, bridges, ditches, and culverts that may be necessary to make a safe crossing as hereinafter provided. Said crossings shall not be less than sixteen feet in width, and shall be on the same grade of the track for 10 feet on each side of the center of said track, and

the approaches thereto shall not exceed a $7\frac{1}{2}$ per cent grade and shall be solidly constructed of the same material throughout, except that next to the rail any suitable material may be used that will prevent the settling against the rails of any material used in said crossing, with no openings or filled spaces therein, except such as is necessary for the rails of the railroads; and, for railroad crossings, such material shall be wood, gravel, crushed rock, concrete, burned clay or slag at the discretion of said company and of a permanent thickness equal to the height of the railroad rails; provided, that nothing in this act shall be construed to repeal any provision of law relating to railroad crossings on streets in cities of the first and second class. (L. 1915, ch. 280, sec. 1.)

162. Neglect; punishment. Every person or corporation failing to comply with the provisions of this act shall be deemed guilty of a misdemeanor and shall be fined not less than five dollars, nor more than fifty dollars, for each and every violation hereof and each day same shall be allowed to remain out of repair shall be a separate offense; provided, however, when any such crossings have been properly constructed as provided in this act, and shall become defective because of accident or unusual severe or stormy weather, the person or corporation whose duty it is to maintain the same, shall have ten days in which to restore said crossing to its proper condition before the penalty herein provided for shall attach. (Id., sec. 2.)

163. Enforcement. It is hereby made the duty of every road overseer in this state to see that this act is complied with in his jurisdiction, and to report to the county attorney of his county every failure on the part of any person or corporation to comply with this act, and it is hereby made the duty of the county attorney of each county in the state to enforce this act. (Id., sec. 3.)

164. Railway trains clear crossings. Each and every railroad company or any corporation leasing or otherwise operating a railroad in Kansas is hereby prohibited from allowing its trains, engines or cars to stand upon any public road within one-half mile of any incorporated or unincorporated city or town, station or flag station, or upon any crossing or street, to exceed ten minutes at any one time without leaving an opening in the traveled portion of the public road, street or crossing of at least thirty feet in width. (Sec. 7142, G. S. 1909.)

165. Grade-crossing signs. Every railway corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained, across each traveled public road or street, when the same is crossed by the railway on the same level. Said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of such board shall be painted in capital letters, "Look out for the

cars." But this section shall not apply to streets in cities or towns, unless the corporation shall be required to put up such boards by the city or town authorities, or the officer having charge of such streets. (Sec. 1771, G. S. 1909.)

166. May set poles, piers, etc. Corporations created for the purpose of constructing and maintaining magnetic telegraph lines are authorized to set their poles, piers, abutments, wires and other fixtures along, upon and across any of the public roads, streets and waters of this state, in such manner as not to incommode the public in the use of such roads, streets and waters. (Sec. 1789, G. S. 1909.)

167. Telephone companies. Telephone companies shall have all the rights and powers conferred and be subject to all the liabilities imposed by the general laws of this state upon telegraph companies. (Sec. 1700, G. S. 1909.)

168. Hedges cut near crossings; signboards removed. Under rules and regulations to be prescribed by them the board of county commissioners of each county in the state are authorized to cut all hedge fences within fifty yards of a railroad grade crossing, or abrupt corner in the road; and thereafter keep the same trimmed to a height not to exceed four feet. Except when used as protection to an orchard, vineyard, or feed lot, and cut all weeds in the public roads within fifty yards of any such railroad grade crossing, or public road crossing, or abrupt turn in the road, and thereafter keep the same cut so same shall not at any time be allowed to grow to a height exceeding three feet. And remove all billboards, signboards, and board fences exceeding four feet in height within fifty yards of any such railroad grade crossing or public road crossing; provided, that where any board fence is removed another shall be constructed not to exceed four feet in height, in the place of the one removed, at the expense of the county; provided further, that nothing in this act shall apply to signs placed by any state or county association for the purpose of imparting historical information or traveling directions. All expenses of the trimming of the said hedge fences, the cutting of weeds, and removal of fences and bill boards shall be paid from the general fund of the county. (L. 1915, ch. 288, sec. 1.)

ADOPTION OF HEDGE LAW BY ELECTION.

169. Hedge fences to be trimmed. That owners of real estate in any county in the state of Kansas shall keep all hedge fences along the public highway cut and trimmed down to not over five feet high, except trees not less than sixteen feet apart and hedges necessary as a protection to orchards, vineyards and feed lots; said feed lots not to extend more than forty rods. All brush cut from said hedges shall be cleaned up and removed or burned. (Sec. 3776, G. S. 1909.)

170. Road overseer give notice. In any county where the provisions of this act shall be adopted, any owners of real estate failing to comply with its provisions, it shall be the duty of the road overseer in the district in which said real estate is located to give thirty days' notice to the owner of said real estate or his or her duly authorized agent, and upon his or her failing to comply with this act, said overseer shall cut or cause to be cut such hedge not more than five feet high, or shall cut or cause to be cut said weeds in the public highway along said real estate, as is provided in this act; and the cost of cutting said hedge or said weeds shall be reported to the county clerk of said county and the same entered on the tax-rolls against the said real estate and collected as other taxes of the county are collected, and paid over to the treasurer of the proper township. (Sec. 3778, G. S. 1909.)

171. Adopted by election. Upon a petition being presented to the county commissioners of any county, signed by a two-thirds majority of all the members of township boards in said county, they shall by proclamation call an election to be held at a general election for township and county officers, and shall submit to the electors the question to adopt or reject the law for cutting hedges, and upon the ballots shall be written or printed, "For the hedge law," "Against the hedge law," under the provisions of the general-elections law; and the judge of election shall count the ballots cast for and against the "hedge and weed law," and make due returns of the same to the county commissioners as other returns are required by law to be made; that said commissioners shall meet within ten days, and with the clerk of the county shall proceed to count said votes, and declare the results in a proclamation, to be published two weeks in some newspaper in general circulation in the county in which such proclamation is made. If a majority of the votes are for such law, they shall declare said law to be in full force and effect, and shall state the day on which the same shall take effect, not longer than two weeks from the date of the election; and from and after such date the provisions of this act shall be in full force and effect. All laws in conflict with the provisions of this act are hereby repealed. (Sec. 3779, G. S. 1909.)

172. Not apply. Nothing in this act shall be construed as to extend its provisions to any county until after the election provided for in the preceding section. (Sec. 3780, G. S. 1909.)

173. Again submit. That whenever any county shall fail to cast a majority of its vote "for the hedge law," the county commissioners may annually thereafter submit the same question to the electors of their respective counties, in the same manner as provided in section four of this act, and declare the results as herein provided. (Sec. 3781, G. S. 1909.)

LIVE STOCK AT LARGE; HEDGES IN HIGHWAYS; PROTECTION
OF TREES.

174. Hedge in public highway. That it shall be lawful for any owner, agent or lessee of any land not within the limits of any incorporated city, who may wish to grow a hedge or hedges on any land by or through which any public highway is now or may hereafter be located, to set his or their fence (as the case may be) out into any public highway or street any distance not exceeding eight feet from the side line of such public highway or street and may continue to maintain such fence in such public highway or street for any time not exceeding five years from the time of setting such fence in such public highway or street; provided, such fence shall not remain in such highway or street more than two years, unless such person shall plant a hedge along the line of such public highway. (Sec. 3766, G. S. 1909.)

175. Live stock not allowed on public property; protection of trees near cities. It is hereby made unlawful for any person to break, destroy or in any manner injure or deface any tree, plant or shrub planted or growing within the limits of any street, highway, public road or avenue leading or projected to or from any public building in this state located or being in any county in this state in which there is a city of the first class; or to make any excavation within the limits of any such street, and within one mile of any building, highway, public road or avenue otherwise than when improving the same under and in pursuance of lawful authority; or to wilfully permit stock of any kind to be or remain, temporarily or otherwise, upon the areaway, or any part of such street, highway, public road or avenue not used for public travel; or to tie or hitch, or wilfully permit to be tied or hitched, to any tree, plant or shrub planted or growing thereon any horse, mule or other animal; or to wilfully set out, build or start any fire on any such street, highway, public road or avenue; or to herd, or wilfully permit to be herded, upon any public road or avenue, any horses, mules, cattle, hogs, sheep or other animals. Provided, that this section shall not be construed to prevent the use of teams, wagons, plows and scrapers necessary to be used while improving the same. Nor the trimming or removal of trees with the consent of the owner of the abutting property, nor the making of excavations by or under the direction of any duly authorized officer of any such city or county. (L. 1913, ch. 183, sec. 1.)

176. Misdemeanor. Any person violating the preceding section of this act shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars, nor more than one hundred dollars. (Id., sec. 2.)

177. Protection of trees along highways. From and after the passage of this act any person who shall cut, girdle, destroy

or in any manner injure any shade tree, or fruit tree, standing or growing, wholly or partly, in or on any street, alley or public highway in the state of Kansas without the consent of the abutting land owner, and in a city the mayor and council, or mayor and commissioners, and in the county the township board, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not less than (\$10) ten dollars or more than one hundred (\$100) dollars for each offense. (L. 1915, ch. 280, sec. 1.)

FIRE GUARDS IN CERTAIN COUNTIES.

178. Highway commissioners. The board of commissioners of highways in each township in counties in Kansas having a population of less than five thousand are authorized to establish and maintain fire-guards in their respective townships for the purpose of preventing the spread and incursion of prairie fires therein, whenever a petition signed by a majority of the qualified electors of their respective townships shall be presented to them requesting them to establish fire-guards; and they shall alter, change or annul any fire-guards so established when requested to do so by a petition signed by a majority of the qualified electors of their respective townships. (Sec. 3826, G. S. 1909.)

179. Width of fire-guards. The fire-guards, when practicable, shall be made upon the highways along such section lines as may be considered best, and shall consist of two plowed strips six feet wide along the sides of the public highways, but upon the same, with the vegetation between such plowed strips burned off during the fall of the year, if deemed advisable; provided, however, that fire-guards may be located upon any other land whenever the consent of the owner or owners thereof may be obtained without any compensation. (Sec. 3827, G. S. 1909.)

180. Joint. The board of commissioners of highways of any two townships may arrange to jointly establish and maintain a fire-guard along the boundary line between such two townships. (Sec. 3828, G. S. 1909.)

181. Road overseers. In addition to the duties already imposed upon them by law, the road overseers in each township where this act shall apply shall, between the 1st day of May and the 1st day of October of each year, cause to be plowed the two strips of land as set forth in section 2 of this act, upon all fire-guards established and located within their respective road districts, and shall cause to be plowed one strip on all fire-guards located upon the line which divides their district from some other road district; and thereafter, during the summer, when so directed by the board of commissioners of highways of their townships, shall cause said strips of land to

be cultivated or replowed, so as to practically keep such strips free and clear of all vegetation; and during the fall of the year, when so directed by said board, shall burn off the grass and vegetation between such plowed strips. (Sec. 3829, G.S. 1909.)

182. Poll tax. The road overseer in each township where this act shall apply may require each person subject to perform two days' labor upon the public highways (generally known as a poll tax) to perform such labor upon the fire-guards, and two days' labor so performed shall be in full satisfaction of such person's poll tax for that year. (Sec. 3830, G. S. 1909.)

183. Additional help. Under the direction of the board of commissioners of highways, the road overseer may employ such additional help as may be required in order to make and maintain fire-guards as herein provided, and shall keep in a book to be provided by said board a full and complete list of all persons doing work upon fire-guards, particularly the name of each person, the number of days he worked, and the date when and the place where the work was performed; and shall make an abstract thereof, certified under oath, and shall file the same with the township clerk. (Sec. 3831, G. S. 1909.)

184. Audit claims. At the regular meeting of the township auditing board thereafter, if the statements of the road overseers are found to be true, the board shall audit the same, and allow to each person who has performed such labor pay therefor at the rate of not to exceed one dollar and fifty cents per day for each person, and three dollars per day for each person and team, and shall draw warrants therefor upon the township treasurer, to be paid out of the general funds of such township. (Sec. 3832, G. S. 1909.)

DAMS USED AS BRIDGES AND CULVERTS, CERTAIN CASES.

185. Damming draws; resolution by commissioners. The provisions of this act shall apply only to such counties in this state as shall, by resolution of their respective boards of county commissioners, duly adopt the same. Said resolution shall be substantially as follows: "Resolved, that this county adopt and accept the provisions of the act of the legislature of 1915, entitled an act providing for the damming of draws, dry water courses and creeks of running water, on public highways in such counties as shall adopt the provisions of this act." Provided, that if the county commissioners on their own motion fail to adopt said resolution when a petition requesting them to do so, signed by 25 per cent of the taxpayers of any county in this state is filed with the county clerk, the commissioners of such county, shall adopt such resolution at their next regular meeting, after such petition has been presented, and if such petition is presented during a regular meeting of said board,

it shall be their duty to pass such resolution before adjournment of such regular meeting. (L. 1915, ch. 237, sec. 1.)

186. Dams for bridges and culverts. In all counties adopting the provisions of this act, it shall be the duty of the highway commissioners of the respective townships of said county, wherever it shall be necessary to construct a bridge or culvert across any draw, dry water course or creek of running water on any public highway in their township, to construct across said draw or dry water course, and to construct across any running creek, if in their judgment it can be successfully done a dam to be constructed either of dirt, cement or stone, as in the judgment of the highway commissioners of such township shall be deemed most feasible. That said dams shall be so constructed, that a spillway shall be provided to carry off surplus flood waters, and in case it is not convenient to construct spillways or it is thought to be too expensive, then the top of said dams shall be made of cement or stone or out of both materials, in such proportions and at such depth as will permit the overflow water to pass over said dam without washing, and provided further, that all dams shall be at least sixteen feet wide at the top on all township and mail route roads. (Id., sec. 2.)

187. Application of act. Section 2 of this act shall apply only to township and mail route roads, such as come under the supervision of the board of highway commissioners of the townships of said counties. (Id., sec. 3.)

188. Dams on county and state roads. In all counties adopting the provisions of this act, it shall be the duty of the county commissioners together with the county engineer, as highway commissioners for all county and state roads, whenever it shall be necessary decided to construct a bridge or culvert across any draw, dry water course or creek of running water, on any public county or state highway in their county, to construct across said draw or dry water course, and to construct across any creek of running water, if in their judgment it can successfully be done, a dam to be constructed either of dirt, cement or stone, as in the judgment of the highway commissioners of such county shall be deemed most feasible. That said dam shall be constructed the same as provided in section 2 of this act, except that dams constructed on county and state highways shall be at least twenty feet wide at the top. (Id., sec. 4.)

189. Consent of land owners. No dam shall be constructed as provided in sections 2 or 3 of this act, without first obtaining the consent of the land owner or owners whose land shall be affected by the construction of such dam, provided however that condemnation proceedings may be had as is now provided by law in establishing roads and highways in this state, and

the land so condemned shall be paid for out of the road fund of said county. Provided further that any land owner may at his own expense and for his own use in any county in this state, whether the provisions of this act have been adopted or not, impound water on his own land by constructing a dam of the kind described in section 2 of this act if on a township or mail route road and of the kind described in section 3 if on a county or state road or highway. (Id., sec. 5.)

190. Survey of dams; record. That it shall be the duty of the county engineer of any county adopting the provisions of this act, to make an accurate survey, of all dams constructed in his county, under this act, that will impound when full twenty acre feet or more of water, in all dams and dry water courses, and all dams that will impound twenty acre feet or more water constructed across creeks of running water, that he shall keep a record in his office, showing the amount of water that each of said dams will impound. And that he will make an accurate survey, and show the number of acres that can be irrigated, from the use of said water, and a full description of the land that can be so irrigated, and in all dams, that will afford irrigation, there shall be constructed, either at the time of building the dam or at any period thereafter, a flume connected with a head ditch so that the water impounded can be drawn for irrigation, and the owner or user of the land so platted and described can if they decide purchase the right to use the water so impounded for irrigation, as provided in section seven of this act. Provided that if such dam is made with the consent of the owner of the land on which the water is impounded and without condemnation proceedings, said water and water right shall be the property of such landowner. (Id., sec. 6.)

191. Plat furnished commissioners; water rights. The county engineer shall furnish a profile and plat to the county commissioners, showing the amount of water impounded in acre feet, the amount of land with legal descriptions, together with plat thereof and the name of the owner or owners of such land and it shall be the duty of the commissioners to offer to sell to the landowner or user, the water right for no longer period than one year, and that they may contract same at what they may deem reasonable or they may sell said water so impounded at so much per [cubic] cubit or acre foot, but no contract shall be made longer than one year, and the money thus received shall be turned into the general road fund of said county; provided, that it shall be unlawful for any one to use any of said water thus impounded on condemned land without first contracting for its use of the county commissioners, and any one guilty of the violation of this act shall be fined in any sum not exceeding one hundred dollars. (Id., sec. 7.)

192. Tampering with dam or connections misdemeanor. In any county in which this act shall be adopted it shall be a misdemeanor, punishable by a fine of not more than \$100 or thirty days in jail or by both such fine and imprisonment, for any one, by any method either by breaking or raising the flume, piping or cutting a dam so as to drain it or any part of it. (Id., sec. 8.)

WEEDS ALONG ROADS AND HIGHWAYS.

193. Destruction of noxious weeds. Every person and every corporation shall destroy, on all lands which he or it may own or occupy, all weeds of the kind known as Russian thistle and Canada thistle, at such time as the board of county commissioners may direct, and notice shall be published in one or more county papers for a time not less than three weeks before the time fixed upon for the destruction of said noxious weeds. (Sec. 9722, G. S. 1909.)

194. County board. It shall be the duty of the county commissioners to fix the time for the destruction of all such noxious weeds, and to provide for the destruction in such a manner as to prevent their bearing seed. (Sec. 9723, G. S. 1909.)

195. Overseer's duty. Every overseer of highway of every township or county shall also at the same time in like manner destroy all such noxious weeds, either on the highways of his road district, railroad right-of-way, or on any unoccupied land therein, upon which the owner or lessee thereof shall neglect or refuse so to do; and for such service overseer of highways or persons employed by him shall receive as compensation the sum of one dollar and fifty cents per day, or three dollars per day for man and team, to be paid out of the general county fund; provided, the limitation of time, as provided in paragraph 5506 of section 33, Laws of 1889, in relation to road overseers, shall not apply to the provisions of this act. (Sec. 9724, G. S. 1909.)

196. Itemized account. It shall be the duty of the overseers of highways to present to the board of county commissioners an itemized account, verified under oath, showing description of each piece of land upon which noxious weeds have been destroyed in accordance with the provisions of this act, and the amounts of the charge for such service, by separate items; and said amount shall become a lien against the lands so described, except in case of the destruction of such noxious weeds on the public highways. The amount of cost of the destruction of such noxious weeds as so certified shall be placed upon the next tax list in a separate column, headed, "For the destruction of noxious weeds," as a tax against the land upon which such noxious weeds were destroyed, subject to all the penalties thereof, and to be collected as other taxes; and the

entry of such tax upon the list shall be conclusive evidence of the liability of the land to such tax. (Sec. 9725, G. S. 1909.)

197. Certify labor. It shall be the duty of all overseers of highways to certify to the county clerk in an itemized account, verified by oath, the amount of labor performed in destroying such noxious weeds on all lands not public highways, on or before the fifteenth day of September in each year. (Sec. 9726, G. S. 1909.)

198. Weeds on right of way of railroads. It shall be the duty of every corporation owning or operating a railroad or inter-urban railroad in this state, on written notice from the owner, lessee or occupant of any land abutting upon said right of way, or from the township trustee or road overseer, within 10 days after such notice to cut, burn or otherwise destroy once each year, between the first day of July and the first day of September, all cockleburrs, burdock weeds, thistles and other noxious weeds in such manner as to prevent the maturing of weed seeds on its right of way adjacent to said land. Any failure to comply with the provisions of this section shall be deemed a misdemeanor and shall be punished, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars. (L. 1913, ch. 257, sec. 1.)

199. Tax list. It shall be the duty of the county clerk to enter upon the tax list, in a separate column for that purpose, headed, "For the destruction of noxious weeds," an amount equal to the cost of such labor as a tax against all lands not public highways upon which such noxious weeds are destroyed. (Sec. 9728, G. S. 1909.)

200. Penalty. If the owner or occupant of any such lands, or the overseer of any highway, or the board of county commissioners in any county of this state, shall fail to comply with any of the requirements of this act, they shall be guilty of a misdemeanor; provided, if any county attorney shall fail or refuse to prosecute, then the court in which the complaint was brought or pending may appoint some reputable practicing attorney to conduct such prosecution, who shall in such event receive the fees provided for in such cases. (Sec. 9729, G. S. 1909.)

201. County attorney. The county attorney shall be liable under his bond for any failure to comply with the provisions of this act. (Sec. 9730, G. S. 1909.)

202. Notices. Notices to the owner of the land provided to be given under the provisions of this act shall be made in the same manner as summons in the district court. (Sec. 9731, G. S. 1909.)

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